Supreme Court, U.S.
FILED
No. 9915 25 MAR 14 2000
OFFICE OF THE CLERK

In The
Supreme Court of the United States

AHMAD MIZANI, a/k/a Eddie Slater, a/k/a Omid Mizani, a/k/a Eddie Mizani,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

Petition for Writ of Certiorari

John M. Quinn
Counsel of Record
Michael J. McAuliffe
QUINN, McAULIFFE & ROWAN
33 Wood Lane
Rockville, Maryland 20850
(301) 762-1696

Counsel for Petitioner

THE LEX GROUP ♦ 1205 East Main Street ♦ Suite 2 East ♦ Richmond, VA 23219
(804) 644-4419 ♦ (800) 856-4419 ♦ Fax: (804) 644-3256

206AP

QUESTIONS PRESENTED FOR REVIEW

1. Whether the definition of "gross income" as defined in the U.S. Code and the Federal Regulations is binding on the District Court (as stated by the Courts of Appeals for the Sixth Circuit, the Seventh Circuit and the Ninth Circuit), or whether the District Court can adopt a different definition proposed by the Government in the context of a criminal prosecution?
2. In determining "gross income," for criminal prosecution purposes, is the definition used by the Internal Revenue Service in its regulations and tax forms binding on the sentencing Court?
3. In a criminal prosecution for filing a false income tax return, what legal effect is given to the tax forms produced by the Internal Revenue Service?

TABLE OF CONTENTS

QUESTIONS PRESENTED FOR REVIEW i

TABLE OF CONTENTS ii

TABLE OF AUTHORITIES iii

INTRODUCTION 1

PETITION FOR WRIT OF CERTIORARI 1

OPINIONS BELOW 1

JURISDICTION 2

CONSTITUTIONAL PROVISIONS, TREATISES, STATUTES, ORDIANCES AND REGULATIONS 2

STATEMENT OF THE CASE 2

REASONS FOR GRANTING CERTIORARI 5

APPENDIX ..... App. i

TABLE OF AUTHORITIES

CASES:

United States v. Barski,
968 F.2d 936 (9th Cir. 1992) 5

United States v. Harvey,
996 F.2d 919 (7th Cir. 1993) 5

United States v. Tandon,
111, F.3d 482 (6th Cir. 1997) 5

United States v. Valentino,
19 F.3d 463, 465 (9th Cir. 1994) 5

STATUTES:

18 U.S.C. §3231 4

18 U.S.C. §3742(a)(2) 4

26 U.S.C. §61 (a) 2

26 C.F.R. §1.61-3(a) 2, 3

26 U.S.C. §7206(1) 1, 2, 3

28 U.S.C. §1254(1) 2

U.S.S.G. §2T1.3 ..... 1, 2, 3

Supreme Court Rule 10(b) 2

INTRODUCTION

Petitioner Ahmad Mizani pleaded guilty to one count of filing a false income tax return in violation of 26 U.S.C. §7206(1). For purposes of sentencing, the District Court had to determine the amount by which Mr. Mizani understated his "gross income." The issue is how Mr. Mizani's "gross income" can be determined.

PETITION FOR WRIT OF CERTIORARI

To the Honorable, the Chief Justice and Associate Justices of the Supreme Court of the United States:

Ahmad Mizani, petitioner herein, prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Fourth Circuit, reproduced in the Appendix herein, at pages App. 1-2.

OPINIONS BELOW

On January 7, 1999, Ahmad Mizani pleaded guilty to Count II of the Indictment in the United States District Court for the District of Maryland (Southern Division), charging that he filed a false income tax return in violation of 26 U.S.C. §7206(1). The case came before the Honorable Alexander Williams, Jr. for sentencing on May 3, 1999. Pursuant to U.S.S.G. §2T1.3, Judge Williams determined that Mr. Mizani had understated his "gross income" on his tax returns for years 1990 through 1993 by a total of $3,042,111.96, and sentenced him to 30 months of incarceration plus one year of supervised release. See the Judgment in a Criminal Case, reproduced in the Appendix at page App. 3.

Mizani appealed this decision to the Fourth Circuit Court of Appeals. In an unreported *per curiam* opinion, that Court affirmed the sentence, stating that the sentencing court

should use "gross income" rather than "net income." This one page opinion is reproduced in the Appendix to this Petition at pages App. 1-2.

JURISDICTION

The Order of the United States Court of Appeals for the Fourth Circuit was entered on December 15, 1999. The Mandate of that Court was issued on January 6, 2000. This Court has jurisdiction pursuant to 28 U.S.C. §1254(1), and Supreme Court Rule 10(b).

CONSTITUTIONAL PROVISIONS, TREATISES, STATUTES, ORDIANCES AND REGULATIONS

The lengthy text of these provisions are set out in the Appendix.

I. STATUTES:
26 U.S.C. §61 (a) (Gross Income Defined)

26 U.S.C. §7206 (1) (Filing False Income Tax Return)

II. REGULATIONS:
U.S.S.G. §2T1.3 (Fraud and False Statements Under Penalties of Perjury [tax returns])

26 C.F.R. §1.61-3(a)

STATEMENT OF THE CASE

Ahmad Mizani was indicted on April 1, 1998 in the United States District Court for the District of Maryland (Southern Division), for three counts of filing a false tax

return and one count of failure to file a tax return. On January 7, 1999, Mr. Mizani entered a guilty plea to Count II of the indictment, charging him with filing a false tax return in violation of 26 U.S.C. §7206 (1) for tax year 1991.

This matter came before the Honorable Alexander Williams, Jr. on May 3, 1999. Pursuant to U.S.S.G. §2T1.3, the critical issue for Judge Williams to decide was the amount by which Mr. Mizani had understated his "gross income" on his returns. Therefore, Judge Williams had to determine Mr. Mizani's "gross income" for the tax years 1990 through 1993.

The only witness to testify was IRS Special Agent Jeffrey Ross. Agent Ross testified that the Government seized thousands of receipts from Mr. Mizani's home, and that he also seized receipts showing that Mr. Mizani had purchased these rugs.

Agent Ross testified that the total of these receipts (which were contained in more than 40 cartons of documents) was $4,824,563.57 for the tax years 199 through 1993.

At this point, the Government had a distinct problem. 26 C.F.R. §1.61-3(a) states that in a merchandising business, "'gross income' means the total sales, less the cost of goods sold. . ." This regulation goes onto state that "the cost of goods sold should be
determined in accordance with the method of accounting consistently used by the taxpayer." Therefore, the Government had to compute cost of goods sold before determining Mr. Mizani's gross income.

After reviewing several thousand receipts and totaling these, the Internal Revenue Service computed "cost of goods sold" using 16 examples. Agent Ross considered the type of rug (actually the city of origin of that rug), and then tried to determine the per square foot charge of one supplier for that rug. He multiplied this per square foot charge by the square footage of the rug, and then pronounced

this total to be the "cost" of the rug. Using these calculations, Agent Ross announced that the "cost of goods sold" was 34% of the total. This 34% represented Agent Ross' opinion, based upon the supplier's per square foot charge in his 16 examples. Based upon these calculations, Agent Ross reduced the total of gross receipts by 34% ($1,640,351.61). He titled this "cost of goods sold," and determined that the remaining balance ($3,184,211.96) was Mr. Mizani's total gross income. Since Mr. Mizani had reported $142,100.00 in gross income, Agent Ross declared that the "underreported gross income" came to $3,042,111.96.

The Government conceded that the "**cost of goods sold**" must be deducted from gross receipts before "**gross income**" can be calculated. However, Agent Ross admitted that he completely ignored the provisions of Schedule C (of the 1040 tax form). The Government's tax forms require 14 steps to compute "gross income," and Agent Ross conceded that he made no effort to calculate 12 of these 14 steps. He also conceded that his calculation of the 13th step was "mistaken." Instead, Agent Ross used his own formula to calculate "cost of goods sold" and "gross income."

United States District Court Jurisdiction: The Defendant was charged with several violations of the United States Code. The District Court asserted jurisdiction of this matter pursuant to 18 U.S.C. §3231.

Court of Appeals for the Fourth Circuit Jurisdiction: The Defendant filed his appeal for review of his sentence because the sentence was imposed as a result of an incorrect application of the sentencing guidelines. This jurisdiction was based upon 18 U.S.C. §3742(a)(2).

REASONS FOR GRANTING CERTIORARI

The Sentencing Guidelines are Based Upon Underreported "Gross Income."

In every prosecution for filing of a false income tax return, the sentence depends upon the underreported "gross income." The Courts of Appeals for the Sixth Circuit, the Seventh Circuit and the Ninth Circuit have each held that the Government need not show a "real tax loss," or that the Defendant owed any taxes at all. See United States v. Tandon, 111, F.3d 482 (6th Cir. 1997); United States v. Barski, 968 F.2d 936 (9th Cir. 1992); and United States v. Harvey, 996 F.2d 919 (7th Cir. 1993). In each of these cases, the Defendant argued that even though "gross income," was understated, there was no real tax loss to the Government because the Defendant had offsetting deductions and therefore owed no taxes. These Courts held that the Sentencing Guidelines must be specifically applied, and that the offense level is determined by the amount of **understated gross income,** and not by other considerations such as whether the Government actually sustained a "real tax loss."

This "short cut" ignores the question of whether the Government actually lost any money, and focuses on whether the Defendant understated "gross income." The Courts have referred to this "short cut analysis" as a "rough and ready calculation," which disregards deductions that would have been available if the taxpayer had filed an honest return. United States v. Harvey, 996 F.2d at 920; United States v. Valentino, 19 F.3d 463, 465 (9th Cir. 1994).

In each of these cases, the Defendant attempted to reduce the sentence by arguing that "gross income" means something other than what is set forth on the Defendant's income tax return form. In the Sixth Circuit, the Seventh

Circuit and the Ninth Circuit, the Courts have specifically rejected that defense position, and defined the term "gross income" according to the IRS regulations as explained in the IRS tax forms.

In this case, the Government Used its Own Definition of "Gross Income."

In this case, Agent Ross conceded that he did not attempt to follow the 14 step process for determining "gross income" described on the 1040 income tax return forms produced by the Internal Revenue Service. Instead, Agent Ross used 16 examples to project a "purchase price," and treated this as if it were the same "cost of goods sold." He conceded that he never attempted to calculate whether any of the merchandise sold by Mr. Mizani was returned by his customers, even though this would reduce gross income. He also conceded that he never made any attempt to calculate Mr. Mizani's inventory at the beginning of the year or at the end of any year. Moreover, he admitted that he never considered any "costs" other than his estimate of purchase price. He admitted that he did not consider the cost of importing the rugs, the cost for customs fees, broker fees, warehouse fees, trucking fees, insurance fees, bond fees, laborers to go get the rugs, hiring a truck driver, renting a truck, whether any rugs were damaged in the course of transport. He never considered any of the costs of labor, or the costs of materials and supplies. In effect, he removed these items from the definition of "gross income," even though they are specifically itemized in the Internal Revenue Service's Schedules which accompany the 1040 tax forms.

In short, the Government contends that it need not follow the tax forms produced by the Internal Revenue Service in calculating "gross income." Judge William agreed, stating that the Government's "estimate" was reasonable, and he did not require the Government to follow

the definition of "gross income" contained on the 1040 tax return form and schedules produced by the Internal Revenue Service.

It is important to note that the Government never attempted to estimate "gross income" as that term is defined by the Internal Revenue Service tax forms. The Government's position is that it did not have to follow the procedures set forth in these tax forms because there were too many documents to consider. Therefore, the Government urged that its own definition of "gross income" (as determined by Agent Ross), should be adopted by the Court. In this decision, the District Court and the Fourth Circuit have redefined "gross income," and had declared that the income tax return forms prepared by the Internal Revenue Service have no bearing on the definition of "gross income." Therefore, a taxpayer who lives within the jurisdiction of the Fourth Circuit Court of Appeals is held to a different definition of "gross income" than an identical taxpayer who lives within the jurisdiction of the Sixth Circuit, Seventh Circuit or Ninth Circuit.

The Fourth Circuit Ignored the Question of How Gross Income Was Defined.

The Court of Appeals for the Fourth Circuit completely ignored the issue, stating "[Mizani] appeals, claiming that the District Court clearly erred in calculating tax loss because the Government failed to deduct business expenses other than cost of goods sold in arriving at gross income. Under the Federal Sentencing Guidelines, gross income is determined without regard to any deductions that would have been available had the taxpayer filed a proper return."

In fact, Mr. Mizani's **never** raised such an issue. His appeal was based on the fact that the Government did not calculate "costs of goods sold," and therefore did not

calculate "gross income" according to the tax forms and regulations. He never made any contention that "the Government failed to deduct business expenses other than costs of goods sold in arriving at gross income." In its **two paragraph opinion**, the Fourth Circuit never addressed the question raised by Mizani, specifically whether the definition of "gross income" used by the Court was correct.

By ignoring Mr. Mizani's contentions, the Fourth Circuit permitted the United States District Court for the District of Maryland to continue to define "gross income," in a manner which is inconsistent with the Courts of the Sixth Circuit, Seventh Circuit and Ninth Circuit. As set forth above, those Circuits have specifically rejected the notion that a Defendant can redefine "gross income," and required the Defendant to abide by the definitions set forth in the U.S. Code and regulations (and therefore by the forms and Schedules produced by the Internal Revenue Service to implement such Statutes and regulations.)

In light of this Case, how can any Court Now Define "Gross Income in a Criminal Prosecution?"

Given this opinion from the United States District Court, and the affirmance by the Fourth Circuit, it is impossible to tell how a taxpayer, a Defendant, the Government or a Court should define "gross income" in a criminal prosecution. If the definition set forth in the Internal Revenue Service Regulations, forms and schedules is not to be used in a criminal prosecution, what definition should be used? Surely a taxpayer cannot be permitted to calculate gross income without using the formulas set forth in the Internal Revenue Service Schedules. Can the Government (and a sentencing Court) be permitted to redefine "gross income" to suit its purposes in a criminal case?

This Court should grant certiorari and determine the meaning of "gross income" in the context of a criminal prosecution.

Respectfully submitted,
QUINN, McAULIFFE & ROWAN

JOHN M. QUINN
33 Wood Lane
Rockville, Maryland 20850
(301) 762-1696
Counsel of Record for Petitioner

Respectfully submitted,
QUINN, McAULIFFE & ROWAN

MICHAEL J. McAULIFFE
33 Wood Lane
Rockville, Maryland 20850
(301) 762-1696
Counsel of Record for Petitioner

Dated: March 14, 2000

TABLE OF CONTENTS
Petition for Rehearing Appendix

Unpublished Opinion,
United States Court of Appeals
for the Fourth Circuit
entered December 15, 1999 ..... App. 1

Judgment in a Criminal Case,
United States District Court
for the District of Maryland
Southern Division
entered May 3, 1999 ..... App. 3

Indictment,
United States District Court
and the District of Maryland
entered April 1, 1998 ..... App. 5

Transcript of Sentencing before
The Honorable Alexander Williams, Jr.,
United States District Court
for the District of Maryland
Southern Division
on May 3, 1999 ..... App. 9

Testimony of Jeffrey Ross:

Direct Examination ..... App. 13
Cross Examination ..... App. 54
Redirect Examination ..... App. 79

Exhibit:

1990 U.S. Individual Tax Return
(1040) for Ahmad Mizani ..... App. 145

1990 Profit or Loss from Business
(Schedule C) for Ahmad Mizani.....App. 148

Seized Sales Receipts Analysis,
with Attachments,.....App. 150

Statutes:

26 U.S.C. § 61 (a)
(Gross Income Defined) .....App. 189

26 U.S.C. § 7206 (1)
(Filing False Income Tax Return).....App. 190

Regulations:

U.S.S.G. § 2T1.3 (a)
(Fraud and False Statements,
Under Penalty of Perjury).....App. 190

26 C.F.R. § 1.61-3 (a).....App. 191

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 99-4354

UNITED STATES OF AMERICA,
Plaintiff - Appellee,

versus

AHMAD MIZANI, a/k/a Eddie Slater, a/k/a Omid Mizani, a/k/a Eddie Mizani,
Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Greenbelt. Alexander Williams, Jr., District Judge. (CR-98-126-AW)

Submitted: October 20, 1999
Decided: December 15, 1999
Entered: December 15, 1999

Before WILKINS, NIEMEYER, and WILLIAMS, Circuit Judges.

Affirmed by unpublished per curiam opinion.

John M. Quinn, Michael J. McAuliffe, QUINN, MCAULIFFE, ROWAN & MCLINDON, Rockville, Maryland, for Appellant. Lynne A. Battaglia, United States Attorney, Jan Paul Miller, Assistant United States Attorney, Greenbelt, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Ahmad Mizani pled guilty to one count of filing a false tax return, 26 U.S.C. § 7206(l) (1994) for which he was sentenced to thirty months imprisonment. He appeals, claiming that the district court clearly erred in calculating tax loss because the government failed to deduct business expenses other than cost of goods sold in arriving at gross income. Under the federal sentencing guidelines, gross income is determined without regard to any deductions that would have been available had the taxpayer filed a proper return. See U.S. Sentencing Guidelines Manual § 2T1.3 (1992). See also United States v. Valentino, 19 F.3d 463, 464-65 (9th Cir. 1994) (in calculating gross income for purposes of determining tax loss, unclaimed deductions such as depreciation are not to be taken into account); United States v. Harvey, 996 F.2d 919, 920 (7th Cir. 1993). Accordingly, the district court did not clearly err in failing to take into account other deductions which Mizani might have been entitled to had he filed proper returns. See United States v. Daughtrey, 874 F.2d 213, 217 (4th Cir. 1989) (factual findings reviewed for clear error).

We therefore affirm Mizani's sentence. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED

UNITED STATES DISTRICT COURT
District of Maryland

ENTERED: MAY 3, 1999

UNITED STATES OF AMERICA

v.

AHMAD MIZANI

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed on or After November 1, 1987)

Case Number: AW-98-0126

Defendant's Attorney: JOHN M. QUINN and MICHAEL J. McAULIFFE

Assistant U.S. Attorney: JAN PAUL MILLER and ODESSA JACKSON

THE DEFENDANT:
x pleaded guilty to count(s) 2

Title & Section Title 26, U.S. Code, Section 7206(1)

Nature of Offense Filing a False Tax Return

Date Offense Concluded 04-14-1992

Count Number(s) 2

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

x Counts 1, 3, and 4 are dismissed on the motion of the United States.

IT IS FURTHER ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

May 3, 1999
Date of Imposition of Judgment

/s/Alexander Williams, Jr. 5-3-99
ALEXANDER WILLIAMS, JR.
United States District Judge

Defendant's SSN: 577-70-1209
Defendant's Date of Birth: 05-05-1942: 05-05-1937

Defendant's Residence Address:
9710 Falls Road
Potomac, Maryland 20854

Defendant's Mailing Address:
9710 Falls Road
Potomac, Maryland 20854

Name of Court Reporter: Gloria Williams

IN THE UNITED STATES DISTRICT COURT
AND THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA

v.

AHMAD MIZANI
a.k.a. Omid Mizani,
a.k.a. Eddie Mizani,
a.k.a. Eddie Slater

CRIMINAL NO. PJM-98-0126
(Filing a False Tax Return, 26 U.S.C. § 7206(1);
Failure to File a Tax Return, 26 U.S.C. § 7203

ENTERED: APRIL 1, 1998

INDICTMENT

The Grand Jury for the District of Maryland charges:

On or about May 18, 1992, in the State and District of Maryland,

AHMAD MIZANI
a.k.a. Omid Mizani,
a.k.a. Eddie Mizani,
a.k.a. Eddie Slater,

the defendant herein, then a resident of Montgomery County, Maryland, did willfully make and subscribe and cause to be made and subscribed a United States Income Tax Return, Form 1040, and accompanying Schedules, for the calendar year 1990, which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Director, Internal Revenue Service, at Philadelphia, Pennsylvania, which said Income Tax Return and

accompanying Schedules he did not believe to be true and correct as to every material matter, in that the said Income Tax Return and accompanying Schedules omitted gross income which **AHMAD MIZANI** derived during the calendar year 1990 from the operation of a rug retail and auction business, whereas, as he then and there well knew and believed, he was required to disclose the gross income derived from the operation of this rug retail and auction business.

26 U.S.C. § 7206(1)

COUNT II

The Grand Jury for the District of Maryland further charges that:

On or about April 14, 1992, in the State and District of Maryland,

AHMAD MIZANI
a.k.a. Omid Mizani,
a.k.a. Eddie Mizani,
a.k.a. Eddie Slater,

the defendant herein, then a resident of Montgomery County, Maryland, did willfully make and subscrive and cause to be made and subscribed a United States Income Tax Return, Form 1040, and accompanying Schedules, for the calendar year 1991, which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Director, Internal Revenue Service, at Philadelphia, Pennsylvania, which said Income Tax Return and accompanying Schedules he did not believe to be true and correct as to every material matter, in that the said Income Tax Return and accompanying Schedules omitted gross income which **AHMAD MIZANI** derived during the calendar year 1991 from the operation of a rug retail and auction business.

26 U.S.C: § 7206(1)

COUNT III

The Grand Jury for the District of Maryland further charges that:

On or about August 25, 1993, in the State and District of Maryland,

AHMAD MIZANI
a.k.a. Omid Mizani,
a.k.a. Eddie Mizani,
a.k.a. Eddie Slater,

the defendant herein, then a resident of Montgomery County, Maryland, did willfully make and subscrive and cause to be made and subscribed a United States Income Tax Return, Form 1040, and accompanying Schedules, for the calendar year 1992, which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Director, Internal Revenue Service, at Philadelphia, Pennsylvania, which said Income Tax Return and accompanying Schedules he did not believe to be true and correct as to every material matter, in that the said Income Tax Return and accompanying Schedules omitted gross income which **AHMAD MIZANI** derived during the calendar year 1992 from the operation of a rug retail and auction business, whereas, as he then and there well knew and believed, he was required to disclose the gross income derived from the operation of this rug retail and auction business.

26 U.S.C. § 7206(1)

COUNT IV

The Grand Jury for the District of Maryland further charges that:

During the calendar year 1993, in the State and District of Maryland,

AHMAD MIZANI
a.k.a. Omid Mizani,
a.k.a. Eddie Mizani,
a.k.a. Eddie Slater,

the defendant herein, then a resident of Montgomery County, Maryland, had and received sufficient gross income that he was required by law, following the close of the calander year 1993, and on or before April 15, 1994, to make an Income Tax Return to the District Director of the Internal Revenue Service, Philadelphia, Pennsylvania, stating specifically the items of gross income and any deductions and credits to which he was entitled; that well-knowing all of the foregoing, he did willfully fail to make said Income Tax Return timely to said District Director of the Internal Revenue Service, to said Director of the Internal Revenue Service, or at any other proper officer of the United States.

26 U.S.C. § 7203

/s/Lynne A. Battaglia
Lynne A. Battaglia
Untied States Attorney

A TRUE BILL:

/s/_____
Foreperson

April 1, 1998
Date

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DIVISION

UNITED STATES OF AMERICA
v.
AHMAD MIZANI,
Defendant.

Criminal Case No. AW-98-0126
Greenbelt, Maryland
Monday, May 3, 1999
10:20 a.m.

TRANSCRIPT OF SENTENCING BEFORE
THE HONORABLE
ALEXANDER WILLIAMS, JR.
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE GOVERNMENT: JAN PAUL MILLER, ESQ.
ODESSA P. JACKSON, ESQ.
Assisistant United States Attorneys
Room 400 U.S. Courthouse
6500 Cherrywood Lane
Greenbelt, Maryland 20770

FOR THE DEFENDANT: JOHN M. QUINN, ESQ.
MICHAEL J. MCAULIFFE, ESQ.
Quinn, McAuliffe, Rowan & McLindon
204 Monroe Street, Suite 109
Rockville, Maryland 20850

OFFICIAL COURT REPORTER:

GLORIA I. WILLIAMS
Room 240 U.S. Courthouse
6500 Cherrywood Lane
Greenbelt, Maryland 20770
(301) 345-4069

COMPUTER-AIDED TRANSCRIPTION OF
STENOTYPE NOTES

INDEX

GOVERNMENT'S WITNESSES

	DIRECT	CROSS	REDIRECT
Jeffrey Ross	6	58	88
		78	96

PROCEEDINGS

THE COURT: All right, Mr. Miller, Ms. Jackson, call the case.

MR. MILLER: Thank you, Your Honor. Good morning. Calling the case of United States of America v. Ahmad Mizani, criminal No. AW-98-0126. Jan Miller for the United States. Seated with me is my colleague Odessa Jackson, also from the U.S. Attorney's Office, and the case agent Jeffrey Ross from IRS, and we're here today for sentencing.

THE COURT: All right.

MR. QUINN: Good morning, Your Honor. John Quinn on behalf of Mr. Mizani. Present with me today is Michael McAuliffe, my partner, who will be

participating in these proceedings, as well as the defendant.

THE COURT: All right.

MR. MCAULIFFE: Good morning, Your Honor.

THE COURT: Good morning. All right. Let's see where we are. I did get a chance to read the list of witnesses and the material that was submitted by both sides, including the records that were submitted by the defense relative to the financial records of the corporation, as well as the records supplied by the defendant and his wife. And I believe, Mr. Miller, Ms. Jackson, you indicated you had a witness or two.

MR. MILLER: Yes. We plan to call Special Agent Ross, Your Honor.

THE COURT: All right. And his testimony is about minutes or something?

MR. MILLER: Direct should be about 30 minutes, yes.

THE COURT: All right.

MR. MILLER: Your Honor, we would ask that all other witnesses -- that there be a rule on witnesses.

THE COURT: All right. How many witnesses does defense plan to call in this proceeding, about seven?

MR. QUINN: Your Honor, we believe that we could call as many as seven. We're not certain we'll call all of them.

THE COURT: All right. Is there any reason not to exclude witnesses under sequestration?

MR. QUINN: The only exception I'd ask the Court to make is we have an expert witness,

Patrick McGinn, who is a certified public accountant. I'd ask that he be allowed to remain in the courtroom during the proceedings.

THE COURT: All right.

MR. QUINN: Otherwise, I know of no other reason.

THE COURT: All right, Mr. Miller. He's an expert.

MR. MILLER: I have no objection, Your Honor.

THE COURT: All right. So all other persons with the exception of the expert just listed are directed to go outside the courtroom and remain in and around the courtroom and they should not under any circumstances discuss their testimony with one another. That's the purpose of a rule on witnesses, to prevent one witness from hearing testimony of another. And I'll hold counsel responsible for their respective witnesses.

MR. MILLER: Thank you, Your Honor.

THE COURT: All right. Are we ready?

MR. QUINN: Yes. May I address the Court as to one slight indulgence that I'd ask the Court to grant the defense again in this case?

THE COURT: Yes.

MR. QUINN: I would anticipate cross-examining Agent Ross. What I would like to do is reserve a portion of that cross-examination for Mr. McAuliffe, and the reason I want to do that is he is the one who has been intimately involved with many of the invoices and details in this particular case. I assure the Court that he will not repeat any of my cross-examination. I do it

really because I think it would allow the case to proceed more efficiently since he's much more intimately involved with those details.

THE COURT: What is the government's position on that?

MR. MILLER: I would object to that, Your Honor. If Mr. McAuliffe is more intimately familiar with the details, he should be the one conducting the cross-examination.

THE COURT: This normally doesn't happen this way. We usually allow one witness or one lawyer to examine them, but because it involves numbers and records and some other relatively complex issues, I'm going to permit it today. So we will ask that the parties be mindful of no redundancy from that standpoint.

MR. QUINN: Yes, sir.

THE COURT: All right. I'll permit it. All right. Let's call Agent Ross to the stand.

THE DEPUTY CLERK: Please raise your right hand.

JEFFREY WILLIAM ROSS,
GOVERNMENT'S WITNESS, SWORN

THE DEPUTY CLERK: State your name loudly and clearly into the microphone and spell your last name for the record.

THE WITNESS: Jeffrey William Ross, R-O-S-S.

DIRECT EXAMINATION BY MR. MILLER:

Q Mr. Ross, how are you employed?

A I'm employed by the Internal Revenue Service.

Q What's your position with the IRS.

A I'm a special agent with the Criminal Investigation Division.

Q How long have you been a special agent with IRS?

A Since 1994.

Q And have you been assigned as the case agent, that is, the lead investigative agent in the case we are presenting here today, the Mizani case?

A Yes, I am.

Q Let me direct your attention to March 29 of 1995. Did a search take place that day pursuant to a search warrant?

A Yes, it did.

Q Was Mr. Mizani's residence searched?

A Yes.

Q And what was the location?

A That was 10110 Chapel Road in Potomac, Maryland.

Q And whose residence was that?

A The title on the deed was Joanne Slater Mizani. We found Mr. Mizani at the residence that day.

Q And was Mrs. Mizani there as well at one point?

A Yes. She did arrive later.

Q Could you describe for Judge Williams the residence, what it looked like, the grounds, that sort of thing?

A The property itself was in excess of four acres. There were three large buildings on the property. The main residence was approximately 7,000 square feet, had seven bedrooms and five bathrooms. Another building was a two-story pool house that was behind the main residence in front of the in-ground pool. That was approximately 25-by-25 feet and that contained a full bath and a wet bar. Then there was a two-story garage which had four bays. The upstairs of the garage was furnished as an office and that was approximately 25-by-40 feet.

Q Have you reviewed during the course of the investigation any appraisals of this property or how much it was worth?

A It was purchased for $975,000 and was appraised in that value as well.

Q Now, did the search cover all of the property, the pool house, and the garage, and the office above the garage, and the residence?

A Everything was searched except for the trucks on the property.

Q Approximately how many trucks were on the property; do you recall?

A I recall two large trucks.

Q During the course of the search were any records seized?

A Yes, numerous records.

Q Generally what types?

A Business records and personal records.

Q Regarding the business records, could you give the judge an idea of what types of -- some of the types of business records that were seized?

A Sales invoices for the purchase of rugs by customers, actual invoices from suppliers, import records of rugs, advertisement files, bank records, canceled checks, numerous records.

Q During the course of the years since this search have you had the opportunity to review the records that were seized?

A Yes, I have.

Q I guess just to be clear, although I think it's been made clear in some of the court papers already, are we talking about a little bit of paper or a lot of paper?

A We are talking about a substantial amount of paper.

Q Directing your attention specifically to business records relating to tax years and calendar years 1990, '91, '92, and '93, did you seize business records and financial records of the type you have just described for those tax years?

A Yes, I did.

Q And have you performed an analysis that attempts to determine both the gross sales for the various businesses that you identified for the records as well as the cost of goods of those sales?

A Yes, I have done the calculations.

Q Let me show you Government's Exhibit No. 1, which is the package that we first submitted to the Court a couple of weeks ago, Your Honor. Does Your Honor have that in front of you? I have another copy if you need it.

THE COURT: Yes, I do have that.

MR. MILLER: At this time I would move Government's Exhibit 1 into evidence, Your Honor.

THE COURT: All right, it will be received.

MR. QUINN: Your Honor, I would like to be clear what it consists of.

MR. MILLER: It's the whole package, spread sheet and then the various spread sheets behind it, the whole package that went in with my first letter.

MR. QUINN: Your Honor, in order to allow our position to be consistent on the record, I would like to object to the entry of that exhibit. The basis for that objection is that the exhibit should be read in conjunction with the accompanying memorandum that was submitted at the same time. All of those records as well as all of those financial details and mathematical computations as it relates to the cost of sales are based upon what we believe to be a totally inadequate summary associated with rugs that had been obtained from a wholesaler in India, Pars, Inc., and we think this is a very

key, important point in this particular case, subpoint A being that unless the government, which has the burden in all respects in these circumstances, can demonstrate a reliable gross income number, then those tables should not be applied, the tables which allow 28 percent of gross income. In this particular case the government seeks to rely upon sampling from only one supplier, one supplier only, and that supplier is the supplier that can only get those rugs to the port, and that is not at all consistent with any notion of cost of goods sales that I'm aware of. So we would object to the admission of this document, which is based upon that type of random and, we believe, inaccurate and misleading summary.

THE COURT: Well, of course, your points would go to the weight and your ultimate argument as to whether it has any credence or credibility, but we're just talking about admissibility right now and this is a sentencing and I'm going to receive documents you have, documents they have, and we'll see what they mean, whether they mean anything. But at this point I'm going to allow the government to introduce the documents that they have already given me, which I have reviewed briefly, and we will listen to the testimony and let you cross-examine and let you make your argument at the end as to what they mean.

MR. QUINN: Very well. I understand you've ruled and I certainly respect that, Your Honor, but I wish to make one point clear. We assert there's a more fundamental problem here. That fundamental problem has to do with the government's burden in this kind of a circumstance where there is a need to calculate cost of goods sold in order to reach gross income, and we believe that any sampling other than a complete sampling based upon the record that the government in fact has in its possession would be totally legally defective. So, it's not just a matter of weight in our eyes.

THE COURT: All right. Okay. I overrule the objection and I'm going to receive the testimony and the documents.

MR. MILLER: Thank you, Your Honor.

BY MR. MILLER:

Q Now, page 1 of the document, which is entitled "Seized Sales Receipts Analysis for Ahmad Mizani 1990 through '93," the large column of numbers, what do those represent?

A That is a total of customer invoices that I sat down with an adding machine and totaled up various stacks of invoices as they were contained in the seized records.

Q And these were all from the defendant's home?

A Yes, they were.

Q Now, let me just be clear as to how this was put together. You have a variety of different line entries here -- I haven't even counted the number of them -- with a date under the column "Period" over to the left; is that correct?

A That's correct.

Q Why did you break them down that way?

A The records, approximately 40 boxes of records, contained envelopes which were labeled with the specific time period. In those envelopes were invoices. There were also folders containing invoices. They may have had a notation on them. They may not have. I would review the contents of those particular envelopes, folders, total them, and then record the totals for that particular envelope or folder.

Q So each one of these lines, then, in this very long column relates to either one folder or one envelope that was seized in the seizure?

A That's correct.

Q Okay. And then you totaled them over to the right; is that correct?

A That is correct.

Q And the years that are listed there, what do those reflect, the years and/or months?

A Those would reflect the notations on the envelopes or they would denote the time frames covered by the invoices.

Q The actual invoices within them?

A Within them.

Q When you say invoices, what are you talking about?

A Receipts that were given to customers for purchases of rugs.

Q Okay. Now, you totaled them up for each year; is that correct?

A That is correct.

Q And did you get a grand total for the sales receipts that you seized during this warrant?

A Yes.

Q What was that?

A $4,824,563.57.

Q And that's listed down towards the bottom of this page, correct?

A That is correct.

Q Now, over on the right at the top you have a column that says "Company Business Names Shown on Receipts." What's that?

A That is a list of the various names that showed up at the top of the customer receipts.

Q And were they -- when you would find a folder or an envelope, were they -- were all the business names kept apart or were they mixed together?

A They were mixed together. Some may be complete with one name, but other envelopes contained various.

Q Now, you then have underneath the grand total of 4.8 million plus, you have cost of sales of 34 percent; is that correct?

A That's correct.

Q And we'll get to how you got to that in a minute. What is that figure?

A That is the --

Q Well, just the number there.

A Okay. It's $1,640,351.61.

Q And so you subtract that from the grand total of the actual receipts and you have $3,184,211.96, correct?

A That's correct.

Q Then you have a line that says "Reported Gross Income" with a figure of $142,100. What's that?

A That is the amount of gross receipts that was reported by Ahmad Mizani on his 1990, '91, '92, and '93 return, which was not filed.

Q Okay. And going to the second page of this package entitled "Tax Return Information, Ahmad Mizani," you have listed there a breakdown; is that correct?

A That is correct.

Q And what does that show?

A That shows that for 1990 gross receipts on the Schedule C total $43,100. The gross receipts on the 1991 Schedule C totaled $72,500, and the gross

receipts on the 1992 Schedule C totaled $26,500. There was no return filed for 1993. Therefore, no figure is included. The total gross receipts reported by Ahmad Mizani is 142,100.

Q So that's why you subtract that number on the first page?

A That is correct.

Q And that arrives, then, at an unreported gross income of $3,042,111.96?

A That's correct.

Q And then you multiply that by 28 percent; is that correct?

A That's the tax rate.

Q And that's the tax rate in the sentencing guidelines; is that right?

A Correct.

Q So the bottom line additional figure that you have there is what?

MR. QUINN: Again, Your Honor, I object strictly for purposes of the record based upon the comments I made earlier.

THE COURT: All right. Overruled.

BY MR. MILLER:

Q What's the additional tax loss figure that you have there?

A $851,791.35.

Q Now, let's go back to the cost of goods at 34 percent. Could you tell us -- tell the Court how you arrived at that figure?

A The records for the investigation period contained no formalized accounting records to gross receipts, expenses, normal ledger, general ledger type of accounting records. So, the prosecutor asked me to come up with a determination of what the cost of sales may be, and I attempted to review the seized records and make a determination of an approximate cost of goods sale for the purchase of a rug by Mr

Mizani to the ultimate sale of a rug. There was no specific records completed prior to that point in time that gave such an analysis. So I reviewed the records and found some receipts that I was able to match into a ledger book that was maintained at the residence of Mr. Mizani which identified particular rugs.

Q And then what did you do? Did you take a sampling or did you do all of the receipts that you found?

A I took a sampling just on rugs that I was able to track into documents maintained by the business.

Q Going back to what you're saying a couple of minutes ago, in the seized records did you find records indicating what cost of goods sold were?

A Not for the investigation period.

Q And what about for expenses for the investigation period?

A No formalized documents, accounting type records.

Q So, was there any documentation, any primary documentation that you could use to arrive at this number?

A No.

MR. QUINN: Objection. I don't know what is meant by "primary documentation."

MR. MILLER: Well, what I was just talking about.

THE COURT: Well, basically there was no documentation to indicate clearly what the cost of sales were; is that right?

THE WITNESS: That's correct.

THE COURT: That's how I take it. All right.

BY MR. MILLER:

Q Turning then to the third page of this package, you have another spread sheet there, is that correct, and it has various columns titled "Name," "Type," "Rug Number," "Ledger Page," et cetera?

A That's correct.

Q And what is this spread sheet?

A That is my approximate calculation for a cost of goods sold figure.

Q And is that the spread sheet showing how you arrived at the average figure of 34 percent?

A That is correct.

Q Now, you made reference to a ledger book; is that correct?

A Yes.

Q Let me show you Government's Exhibit No. 3. What is that?

A That is the ledger book that I referred to in my spread sheet.

Q And where was that found?

A This was found at Chapel Road.

MR. MILLER: Okay. Move for the admission of Government's Exhibit 3, Your Honor.

THE COURT: All right. We will note your objection to all of these exhibits, but I overrule it.

MR. QUINN: So I have a continuing objection?

THE COURT: Yes. Again, let's make it clear. All of hese exhibits that the government is attempting to introduce -- they appear to be 1 through 30 -- are you objecting to all of them?

MR. QUINN: I am objecting, yes.

THE COURT: All right. Let the record reflect that counsel again objects to all of the government's exhibits. And, again, my position is that this is a sentencing. The Court has to receive some evidence and testimony as to what the amount is to justify whatever the sentencing factor I have to rely on is and I'm going to give the government some leeway to put these exhibits before me to look at and we can argue

later as to their weight, whether they have any real essence, any real probative value, but I feel that these are relevant, they're material, and at this point I have not heard anything that would preclude their admissibility before me commensurate with the testimony that I'm hearing, and so I overrule your objection.

MR. QUINN: Very well, sir.

THE COURT: All right.

MR. MILLER: Thank you, Your Honor.

BY MR. MILLER:

Q Agent Ross, I've opened randomly to page -- are the pages numbered in here?

A Yes, they are.

Q All right. I've opened to page 26. Does this have the same columns that you find throughout this book?

A Yes.

Q The first two columns, there's a column that says "N.O." at the top, correct?

A Yes.

Q And then the second column says "Old N.O."; is that right?

A That would be correct.

Q What did you take those to mean?

A That would be a specific rug number, a new rug number and an old rug number.

Q And then the next column is "Description"; is that right?

A That's correct.

Q And what's listed under there?

A Various titles for rugs.

Q Types of rugs?

A Types of rugs.

Q Next column is "Color," right?

A Yes.

Q What's under there?
A Various colors.
Q For those rugs?
A Yes.
Q And then you have a size column showing the size of the rug; is that correct?
A That's correct.
Q Then the last two columns are titled "B. Price" and "S. Price"; is that correct?
A That's correct.
Q And what are listed below the B. Price and the S. Price?
A There are numbers which appear to indicate a price.
Q Okay. And is there a relationship mathematically between the B. Price and the S. Price?
A The S. Price is two times the B. Price.
Q So, for example, this first row here, this first entry for this rug number old -- number 1276, old number 9216, has a B. Price of 350 and an S. Price of 700, correct?
A That's correct.
Q Okay. Now, when you said you tried to find receipts that you could match back to that ledger book, what do you mean?
A I tried to find a customer receipt that contained a rug number and a rug description that matched this into this ledger.
Q Were you able to do that with all of these examples here on the third page of Government's Exhibit 1?
A Yes, I was.
Q Okay. I'm just going to run through one line. Did you do the calculations basically the same for all of these entries on this line?
A Yes, I did.
Q Okay. Let's run through the one line. First name is Helen B. Doner; is that right?
A That's correct.

Q And if you look at the next page in your package there's a Xerox there of a receipt in the name of U.S. Capital made out to Helen B. Doner; is that right?
A That's correct.
Q What is that?
A That is one of the seized customer invoices.
Q These are the sales receipts we were talking about before?
A Yes.
Q Is this the one you used for the first three entries of your spread sheet?
A Yes, it is.
Q And I see the numbers 1, 2, 3 written next to the three rugs listed on that receipt; is that right?
A Yes.
Q And are those your notations?
A They are.
Q So the first line we have Helen B. Doner as the buyer, correct?
A Correct.
Q And then you've got "Kashan 4X6." What's that?
A That is the type and size of the rug that was sold.
Q And is that listed on the receipt on the next page?
A Yes, it is.
Q Then you've got rug number 2318. What is that?
A That is the rug number that was assigned to that particular product.
Q And is that listed on the sales receipt under Ms. Doner's name on the next page?
A Yes, it is.
Q Were you able then to find that rug number in the ledger book?
A Yes.
Q And that was on?
A Page 47.
Q And that's listed also in your spread sheet, correct?
A Correct.

Q Now you have a cost per square foot of $8; is that right?

A That's correct.

Q Now, how did you arrive at that?

A I reviewed the numerous seized records and reviewed for purchases of rugs by Mizani and Mizani related businesses. A substantial number of the rugs appeared to have been imported during the investigation period, okay. Pars was one of the importers. Pars was also importing rugs at the time in question that these rugs were sold.

Q So were you looking at import and purchase records for what years?

A For 1990, '91, '92, ;93.

Q Okay. Go ahead.

A So I was attempting to match rug purchases to rug sales in a timely fashion, okay, meaning it appeared Mr. Mizani was turning over a lot of rugs. He was selling a substantial number of rugs. Therefore, the inventory would turn over quick. So, I was attempting to compare import records for the time frame that the sale occurred. So --

Q Okay. And then how do you get to $8 per square foot?

A From the invoice records from Pars Auto --

Q The next page of your package after the Helen B. Doner receipt is a Xerox of a Pars Auto Import page; is that correct?

A That's correct.

Q And what does that show?

A That shows the importation of rugs by Chanel Oriental Rug Galley at 108 North Washington Street, Easton, Maryland.

Q Does this show a price per square yard?

A Yes, it does.

Q And then what did you do with that?

A I divided that by nine to come up with the square footage.

Q And that would be $8, which you have here on the spread sheet; is that correct?

A That's correct.

Q By the way, I notice at the top of the column on the Pars invoice it says U.S. C.I.F.; is that correct, above the -- in the rate column?

A Yes.

Q Do you know what C.I.F. means?

A Cost insurance freight.

Q Meaning that's all included in the price?

A Yes.

Q And it shows here that this was from Bombay. Again, on the Pars receipt in the last line of sort of the heading, it's typed in that it's from Bombay to Baltimore; is that right?

A Yes.

Q Where does that show it's being shipped to?

A To Baltimore.

Q So, to go back to the spread sheet now, you have your $8 per square foot. Then you have total square foot, number of 24, correct?

A That is correct.

Q How did you get that?

A Multiply it to the size of the rug, which was a four-by-six.

Q Okay. Then have a cost of $192. How did you get that?

A Multiplied $8 per square foot by 24 square feet.

Q All right. Then we have percentage of total price, and I'll come back to that in a minute. Then you have columns for the B. Price and the S. Price; is that right?

A That's correct.

Q And what are those?

A They come from page 47 of the ledger.

Q And is it for that particular entry for that rug number?

A Yes. The 2318 in the ledger is a Kashan red, six-by-four, and 275 shows in the B. column and 550 shows in the S. column.

Q Now, you did not use the B. Price, or the S. Price for that matter, as the cost of the rug to Mr. Mizani; is that correct?

A That is correct.

Q Why not?

A They appeared to have no reference to the actual ultimate sale of the rug or to the purchase of a like kind rug.

Q Did the S. Price match -- as you looked through here and were able to match them up to various receipts, did the S. Price match with the various prices he was getting for the rugs?

A To review my list, I see two occurrences -- three occurrences.

Q Okay. And the other ones didn't?

A The other ones did not.

Q Would they be above or below?

A Both.

Q What about the B. Price, did that seem to match with the invoice records showing how much the rugs cost?

A No, it did not.

Q How did Mr. Mizani operate his business, do you know, during the course of the investigation period? Did he have stores? Did he do auctions or what?

A He had both, stores and conducted auctions.

Q And what was your belief as to what the B. Price and the S. Price were?

A The B. Price, I considered that to be a -- actually, the B. and the S. Price a window for sale at action, okay, B, a base price for the opening bid and the S. Price for the possible price listed on the tag of the rug.

MR. QUINN: Your Honor, I specifically and additionally object to that. There's

been no basis for that conclusion reached by this agent

THE COURT: Yes. He said possible. Where do you get that from? Let's see if we can go into that.

MR. MILLER: I was going to ask that.

BY MR. MILLER:

Q Do you know for sure whether that's what the B. Price and the S. Price mean?

A No, I do not.

Q Were you able to match the B. Price and the S. Price up other than occasionally when the S. Price matched the actual sale price? Were you able to match them up with any other documents showing what those numbers were?

A No.

Q Now, "Actual Price" then is the next column, correct?

A Yes.

Q And in this sample it's $450; is that right?

A That's correct.

Q What does that represent?

A That is the price of the rug to Helen B. Doner.

Q And that's shown on the receipt; is that right?

A That is shown on the receipt.

Q Then you have "Sales Tax" of $27. What's that?

A Sales tax was collected on the purchase of these rugs and I multiplied the actual price by the applicable rate.

Q And you added that. You have a total price of $477; is that correct?

A That's correct.

Q In calculating the cost of goods, did you use the actual price that you have listed there of 450 or the total price including the sales tax?

A The total price including sales tax.

Q And why did you do that?

A Because there was no indication that the sales tax was paid over to the appropriate states.

Q Did you review the records that were seized to determine -- could you find any records showing canceled checks, or sales tax receipts or anything like that showing Mr. Mizani ever paid sales tax that he collected?

A I saw no retained copies of sales tax returns. I contacted the state of Maryland and there was no records of sales tax returns filed by Ahmad Mizani or various Mizani related businesses.

Q So the state of Maryland didn't have any indication that he ever paid any of the sales tax?

A No.

Q So, then you have the total price of $477 and how did you come to the 40 percent total -- percent of total price?

A I divided the cost of 192 by the total price, which is the last column of 477.

Q Now, you have repeated this process for all the rugs listed on the spread sheet, correct?

A That's correct.

Q And you get a bottom line cost if you add up all the costs of $7,104.38; is that right?

A Yes.

Q And bottom line total price of $20,657.50?

A That's correct.

Q And that arrives at an average of what?

A 34 percent.

Q Is that where the number comes from on the first page of the spread sheet?

A Yes.

Q In fact, if we go to the next page where the Helen B. Doner receipt is, there are various handwritten figures over on the left of the B. Price and S. Price, cost and all that. Are those your calculations?

A Those are my calculations.

Q Now, you said that you found import records; is that correct?

A Yes.

Q Could you give the Court an idea -- well, did you find records showing Mr. Mizani or any of his businesses were buying records other than import?

A Yes, they were.

Q Like through local wholesalers and things like that?

A That is correct.

Q Could you give the Court an idea of what type of comparison those were? I mean, were there few import records, a lot of import records, what?

A There was a lot of import reports. I was actually reviewing the wholesale records for the investigation period and I had a difficult time finding a substantial amount of rugs other than -- that were purchased by wholesale. I did find records pertaining to wholesale and did speak with some of the wholesalers to Mr. Mizani.

Q Okay. But the majority of rugs that you were able to find receipts for him purchasing during the relevant time period, did they appear to come --

MR. QUINN: I think we're in a sensitive area. I would object to the continuous leading.

THE COURT: All right. Sustain the objection, Mr. Miller.

BY MR. MILLER:

Q Could you give the Court an idea of a comparison between the import records and wholesale records for the period '90 through '93?

A A substantial amount of import records. My knowledge of the import records indicated that payment had to be received for the rugs to be delivered. My understanding of wholesale records, although there may have been invoices that were submitted to Mr. Mizani, the mere invoice was not an

actual indication that that rug was held by Mizani or actually purchased by Mizani. There was liberal return policies for rugs listed on wholesaler invoices.

Q Now, after you seized the records here or during the course of the seizure were any bank records seized?

A Bank records were seized, yes.

Q What types of bank records?

A Personal records and business related.

Q And have you done any sort of analysis of bank deposits for the years '90 through '93?

A Yes, I have.

Q Let me show you Government's Exhibit 2, which, Your Honor, is the one page that I submitted with my April 26th letter.

MR. QUINN: That's an additional exhibit, Your Honor. I object. The issue of bank deposits is not relevant to this proceeding, nor has there been any testimony to suggest any accuracy associated with bank deposits, namely that there aren't cross deposits, that there aren't deposits for other purposes and that all deposits would be attributable to Mr. Mizani.

THE COURT: All right. For the same reasons I gave before, I'm going to permit the government to introduce these records. We will make a determination as to their relevance, their weight. Again, the reason the Court will continue to do this is that there appears to be a lack of records maintained by the defendant with reference to this business, and I think the government is entitled to put on material and relevant evidence with reference to the value that the Court has to look at. So

I'm going to overrule the objection. All right.

MR. MILLER: Thank you, Your Honor.

BY MR. MILLER:

Q Now, Government Exhibit 2 which I have in front of you entitled "Bank Deposit Summary," what is that?

A It is the analysis that I prepared of the total deposits into the bank accounts.

Q Which bank accounts?

A Bank accounts that related back to seized records that were found at Mr. Mizani's home.

Q And I guess running through the columns very quickly, first is the year; is that correct?

A That is correct.

Q And that represents what?

A The time frame covered.

Q And then you have "Listing of Bank"; is that right?

A That is correct.

Q And what does that indicate?

A The name of the financial institution where the account was maintained.

Q Then the next line you have or next column you have the "Account Name"; is that right?

A Yes.

Q And what does that represent?

A The name on the account.

Q For that particular account?

A For that particular account, yes.

Q Then the next line is "Account Number," correct?

A That is correct.

Q And that indicates what?

A The number associated with that account by that financial institution.

Q And then finally you have a column entitled "Total Deposits"; is that right?

A That is correct.

Q And what's that?

A That is the total of the deposits into the bank for the particular time frame.

Q So, for example, the first line you have 1990 Citizen Savings Bank, FSB, account name Joanne Slater Mizani, account number 09-90-14649, correct?

A Correct.

Q And then the total deposits column for that line you have $184,042.46?

A That's correct.

Q What does that number represent?

A That is the total deposits into that account that were adjusted by transfers and redeposits.

Q Okay. And that is for the year 1990, correct?

A That is for the 1990.

Q And then you added up all these various deposits for all these various accounts for the years '90 through '93; is that right?

A That's correct.

Q And what's the bottom line total?

A $5,168,565.76.

Q Now, did you subtract out any expenses from this or these are just deposits?

A Those are just deposits.

THE COURT: Now, what did you have, the statements, the monthly statements for these years?

THE WITNESS: They were obtained by subpoena and got the monthly statements and the sample deposits items into those accounts.

THE COURT: I see.

BY MR. MILLER:

Q And for the various accounts that are listed on here, how did you find those account numbers and account names?

A I started usually with a source document from the seized records when I would find a bank statement

and then a subpoena was prepared to get all of the bank statements for the investigation period.

THE COURT: Did you find any records of any deposits at the house during the seizure or the search warrant? Did you find any deposit slips or bank records?

THE WITNESS: That may have been how I was actually able to locate some of the accounts. There were deposit tickets, but I did not have what actually went into the bank.

THE COURT: But these are the records that you received as a result of the subpoena?

THE WITNESS: That is correct.

THE COURT: All right.

BY MR. MILLER:

Q For each account what type of bank records linked up to any of these accounts did you find at the house?

A Bank statements, canceled checks, deposit tickets, checkbooks, blank checks, that sort of record.

Q Now, the --

THE COURT: Are these checking accounts, savings accounts? What are they?

THE WITNESS: Your Honor, they were all checking accounts.

THE COURT: All right.

BY MR. MILLER:

Q Do you know if this spread sheet, Government's Exhibit No. 2, includes all the accounts that could be linked to Mr. Mizani or an entity linked to Mr. Mizani?

MR. QUINN: I object.

THE COURT: Does he know? Is he aware? Maybe yes or maybe no. I don't know. Overruled.

THE WITNESS: Actually --

THE COURT: Do you know?

THE WITNESS: I was reviewing the search warrant records again and actually located an additional bank account just last month that was not included in this analysis. So, at this point in time my analysis I know is missing one bank account.

THE COURT: All right. Next question.

BY MR. MILLER:

Q Now, did you review from seized records and records obtained by subpoenas any evidence of expenses paid by Mr. and Mrs. Mizani during the years '90 through '93?

MR. QUINN: Objection to the compound question.

THE COURT: Yes, let's break that down. Again, I sustain the form of the question. Let's break it down a little bit.

BY MR. MILLER:

Q Well, did you review any records for expenses paid by Mr. Mizani? Well, let me ask you this way. Could you split up -- did you split up any analysis between Mr. Mizani and Mrs. Mizani?

MR. QUINN: Which question is it, could you or did you? I object.

MR. MILLER: Did he.

MR. QUINN: Did he?

BY MR. MILLER:

Q Did you split up expenses between Mr. and Mrs. Mizani?

A No, I did not.

Q All right. Did you find records indicating paid expenses by Mr. or Mrs. Mizani?

A Yes, I did.

Q And let me ask you about mortgage payments and down payments for property. Was any property

purchased by or mortgages paid by Mr. or Mrs. Mizani during the years '90 through '93?

A Yes, there was.

Q And what properties were owned during that period of time and who owned them?

A There were three properties owned during the investigation period. They were all titled in the name Joanne Slater Mizani.

THE COURT: I didn't hear that. There were what?

THE WITNESS: They were titled in the name of Joanne Slater Mizani.

THE COURT: Three properties all titled in Joanne?

THE WITNESS: All titled in Joanne's name. The first property was 10110 Chapel Road, and that property was purchased in approximately 1991 for $975,000.

THE COURT: 1991?

THE WITNESS: Yes.

THE COURT: I see. That's the home in Potomac?

THE WITNESS: That is the home that the search warrant was executed at.

THE COURT: All right.

THE WITNESS: The second piece of property was 9925 Kentsdale Drive. That was purchased prior to the investigation period for approximately 570,000. That was also titled in the name of Joanne Slater Mizani.

THE COURT: Where is that?

THE WITNESS: That was in Potomac, Maryland as well.

BY MR. MILLER:

Q Did Mrs. Mizani still own that during the investigation period?

A Yes. It was not sold until 1993.

Q Okay. Go ahead.

A There was another piece of property, 4829 originally called North Lane. That was in Bethesda, Maryland. That was originally purchased in the name of, I believe, Ahmad Mizani, and during the investigation period the name on the title was changed to Joanne Slater Mizani. There was a document filed at the Court.

THE COURT: Well, let me go back again. When was that purchased originally?

THE WITNESS: Approximately in the 1970's.

THE COURT: And that was in the name of who, Ahmad?

THE WITNESS: Ahmad Mizani.

THE COURT: By himself individually?

THE WITNESS: By himself.

THE COURT: And when was that put in Joanne's name?

THE WITNESS: There were transactions occurring prior to the investigation period to put the property into an apparent family member name. I do not know for certain that that is a family member. Then the property came back into the name of Joanne Slater Mizani. The document was completed with a date prior to the investigation period, but it was actually entered in at the courthouse in 1991 and '92.

THE COURT: So what you're telling me is that it went through a series of conveyances through some family members?

THE WITNESS: That is correct.

THE COURT: And in 1991 you're saying that a deed was recorded in the land records of Montgomery County in 1991 in the name of Joanne?

THE WITNESS: Yes, '91, '92. I'm not for sure on the date.

THE COURT: And what was the seller? Who conveyed it; do you remember?

THE WITNESS: That was the family -- apparent family member from the prior transaction.

THE COURT: All right.

BY MR. MILLER:

Q Were any payments made on any of these three properties during the -- either down payments or mortgage payments made during the years '90 through '93?

A I was able to locate records for payments on the Chapel Road property and the Kentsdale Drive property.

Q By the way, just to be clear, you mentioned before I think the North Lane property was originally called North Lane. What do you mean by that?

A They changed the address, the street the name, to West Lane.

Q The county changed that at some point?

A The county changed that.

Q Okay. Did you add up the down payment and mortgage payments for the Chapel Road property and the Kentsdale Drive property?

A Yes, I did.

Q For the time period '90 through '93?

A That is correct.

Q Approximately what did that total?

A $550,000.

Q Now, what about cars? Were any cars titled to Mr. Mizani during the '90 through '93 periods?

A I located one title to a vehicle for Mr. Mizani, but I believe it was outside of the investigation period.

Q What about to Mrs. Mizani, were there cars titled in her name during '90 through '93?

A Yes, there was.

Q What were they?

A There was a Rolls Royce, a Mercedes sedan, a Mitsubishi van, and an Isuzu Trooper.

Q And did you locate any records showing any payments made on those automobiles during the years '90 through '93?

A Yes. Those vehicles were purchased before the investigation period and liens -- there were notes that continued through the -- into and through the investigation period.

Q And approximately how much in total was paid on those liens from '90 through '93?

A Approximately $90,000.

Q Did you find during the search warrant evidence of credit card bills being paid during the years '90 through '93?

A Yes, I did.

Q And were any of those in Mr. Mizani's name, do you recall?

A From my analysis, no, they were not.

Q What types of credit cards are we talking about?

A There was VISA, J.C. Penney, Woodward and Lothrop, Spiegel, American Express.

Q And whose names were they in?

A Joanne Slater Mizani.

Q Did you add up the expenditures on those credit cards for the years '90 through '93?

A Yes, I did.

Q And approximately what did that add up to?

A In excess of approximately $276,000.

THE COURT: Let me go back and ask again -- I'm not quite clear -- on the 550 some thousand dollars on these properties paid from '90 to '92, who paid them?

THE WITNESS: There were checks coming from the accounts aforementioned, from Joanne Slater Mizani's accounts.

THE COURT: $90,000 for the cars?

THE WITNESS: I did not track the particular source payment. I used the --

THE COURT: Well, which one of these accounts paid these bills; do you remember?

THE WITNESS: I did not get all the checks from these accounts, Your Honor. I did review the checking account, some of the retained checks from Joanne Slater Mizani's account, and that appeared to be the household account.

THE COURT: So, essentially Joanne Slater Mizani wrote the bills or she wrote these checks?

THE WITNESS: Her name --

THE COURT: Paid the notes?

THE WITNESS: Her name was at the top of the check and her name was the signature on the signature line.

THE COURT: All right. Okay.

BY MR. MILLER:

Q Now, during the course of the search did you seize any or were any partnership papers found, partnership contracts, things of that nature?

A There were no partnership contracts. There were partnership returns.

Q Partnership tax returns?

A Tax returns.

Q For which entities?

A For Chanel Oriental Rug Gallery.

Q And other than those, were there any other partnership payments, contracts, distributions, anything like that found in any of the records?

A No. There were no formal records.

Q Did you find any incorporation papers for any of these businesses showing that they were incorporated?

A I found corporate paperwork, corporate charters, but those pertained to corporate entities that had been dissolved or forfeited prior to the investigation period.

Q And how do you know that?

A I checked at the state of Maryland.

Q How about for entities that were still in existence from '90 through '93, did you find any papers showing any of them were incorporated?

A No, I did not.

Q Now, you mentioned back towards the beginning of your testimony that when you -- well, we were talking about the supplies of rugs. You did find some records from wholesale suppliers; is that correct?

A That's correct.

Q And did you talk to any of them?

A Yes, I did.

Q And did you talk with any of them about Mr. Mizani's dealings with them?

A Yes. Mainly they said they dealt with Mr. Mizani. Mr. Kuraishi said that Mr. Mizani had a bad reputation as it pertained to payment.

MR. QUINN: Object.

THE COURT: Yes, that's just loose hearsay. I'm going to sustain that.

BY MR. MILLER:

Q Let me ask a direct question, a more narrow question. Did you ask Mr. Kuraishi whether Mr. Mizani bought any rugs from him?

A Yes, I did.

Q Did he?

A Yes, he did.

Q What about Mr. Kuraishi's brother?

A Yes, Mr. Mizani purchased rugs from him.

Q And did Mr. Kuraishi tell you anything about whether Mr. Mizani paid for all of the rugs?

A Yes, he did.

Q What did he say?

A He said that Mr. Mizani owed him approximately $15,000 and he owed his brother in excess of $100,000.

Q Did you talk to any other suppliers regarding Mr. Mizani's payments to them?

A Yes, I did.

Q Did any other wholesale suppliers tell you whether or not Mr. Mizani still owed them for rugs he had obtained?

A Yes.

Q What about that?

A Seized records indicate there were balance dues to the various wholesalers. I contacted those wholesalers. I can remember Eastern Oriental Rugs had a substantial balance due at the start of the investigation period. I contacted the owners of the company and they said that Mr. Mizani's payment history was not good and that he still owed money.

THE COURT: Going back to these accounts, this Chanel Oriental Rug Gallery, this Chanel Oriental Rugs, Manhattan Auction, Chanel Oriental Rugs, U.S. Capital Auction, King's Auction, are these businesses? Were they licensed? Any registration anywhere in Maryland? Who are they doing business as? Were they trade names or who are these -- who was driving these accounts?

THE WITNESS: These are trade names. There was no official corporate entity in the state of Maryland. The Chanel Oriental Rugs did have a license to operate in Montgomery County. Manhattan Auction, there was a license obtained to operate that business in Maryland.

BY MR. MILLER:

Q Was that a trader's license?

A A trader's license, yes.

Q All right. Go ahead.

THE COURT: Who sought the license? Who signed?

THE WITNESS: The names on the license for Manhattan Auction was Omid Mizani.

THE COURT: Ahmad here?

THE WITNESS: Omid, O-M-I-D.

MR. QUINN: It's a different person, Your Honor.

THE COURT: All right. A different person --

BY MR. MILLER:

Q Did you talk to -- have you reviewed any deposition testimony from Mr. Omid Mizani?

A Yes, I did.

Q Who is Omid Mizani?

A Mr. Mizani's son.

Q And did Mr. Omid Mizani testify about why he went to get a license for Manhattan Auction?

A Yes, he did.

Q What did he say?

A He said he did it under the advice of his father.

Q Go ahead. Any others you want to go over, Your Honor?

THE COURT: No. I'm fine, unless you have other information on the driving forces that you know of behind these entities as they were licensed.

THE WITNESS: The witnesses that I spoke with, Your Honor, the depositions that I reviewed, everything came back that Mr. Mizani --

MR. QUINN: Objection.

THE COURT: Well, everything came back, I mean, that's just a conclusion. What specifically do you have to give me with reference to who registered these

names? You've already told me Omid, the son, was behind the Manhattan. What about the others?

THE WITNESS: The business names that actually show up on the accounts, okay, I reviewed bank-account records for signature cards. There are names of associates of Mr. Mizani. Mr. Mizani's name does not regularly appear on the documents pertaining to the business. However, Mr. Mizani has --

MR. QUINN: Objection.

THE COURT: Yes, I understand. Sustain the objection. All right.

BY MR. MILLER:

Q Let me show you a couple of examples, Agent Ross. Court's indulgence please, Your Honor. Let me show you a couple of things, Special Agent Ross. Let me show you Government's Exhibit SW-34? Do you recognize that?

A Yes, I do.

Q What's that?

MR. QUINN: May I see it, please?

MR. MILLER: Sure.

MR. MCAULIFFE: Your Honor, there is a witness who I just -- who was not here when Your Honor gave the instruction and I did not recognize him and I have just instructed him to leave as soon as I realized he was here.

THE COURT: All right.

MR. MCAULIFFE: I just I wanted you to know why I was gesturing.

THE COURT: All right. No intentional violation of the rule. No problem.

MR. MCAULIFFE: Thank you.

BY MR. MILLER:

Q Let me show you SW-34. Do you recognize that?
A Yes, I do.
Q What is it?
A It's a letter to Citizens Bank of Maryland on the letterhead of U.S. Capital Auction.
Q Is there a signature line?
A Yes, there is.
Q By the way, what's the date of the letter?
A The date of the letter is January 22, 1992.
Q And what is the signature line listed?
A It says "A. Mizani, Owner."
Q There's no signature on it, correct?
A There's no signature.
Q Where was this document found?
A There was located at Chapel Road.

THE COURT: And what's the entity? What's the name of that entity?

THE WITNESS: U.S. Capital Auction.

THE COURT: All right.

BY MR. MILLER:

Q Let me show you Government's Exhibit SW-33.

MR. QUINN: We'll have an objection to SW-33. It's a document that's clearly outside of the investigation period.

THE COURT: I'm going to overrule it. Get it marked.

MR. MILLER: I'm sorry.

THE COURT: Get it marked.

BY MR. MILLER:

Q Let me show you SW-33. What's that?
A It is a form SS4, which is an application for employer identification number.
Q And where was this seized?
A This was seized from Chapel Road.
Q And what is it for, an application for what?
A It's for an employer identification number. It's an IRS number.

Q And is there a trade name or business name listed on there?
A Action Auction.
Q And is this a Xerox or an original?
A A Xerox.
Q Is it signed by someone?
A Yes, it is.
Q How is it signed?
A "Ahmad Mizani, Owner."
Q Let me show you Government's Exhibit L-1.
MR. QUINN: Can we establish the date of that document, please?
MR. MILLER: Sure.
BY MR. MILLER:
Q Is there a date on there?
A The date is 4-29-94.
Q Okay. Let me show you Government's Exhibit L-1, Agent Ross. Do you recognize that?
A Yes, I do.
Q What is it?
A This is the lease for 9155 Brookville Road.
Q Where is that located?
A In Silver Spring, Maryland.
Q Where did you get this lease? Is this an original or a copy?
A This has original signatures. This was obtained from the landlord.
Q What was located -- during the years '90 through '93 what was 9155 Brookville Road?
A The sign apparently said "Rug and Carpet Center," which was the business owned by Omid Mizani, the son of Ahmad Mizani.
Q Have you ever seen any other documents in the seized documents showing other businesses listed at that address?
A Yes, I have.
Q What other businesses that you can recall?

A U.S. Capital Auction and Chanel.

Q And directing your attention to the top of this agreement. Who is listed as the tenants?

A Ahmad Mizani and Omid Mizani, TA, Chanel Oriental Rug Gallery.

Q What do you understand "TA" to mean?

A Trading as.

Q And did both Mr. Mizani, that is, Ahmad Mizani and his son, sign this lease?

A Yes.

Q And right above their signatures where it says "tenant," what's typed in there?

A Ahmad Mizani and Omid Mizani, TA, Chanel Oriental Rug Gallery Company.

MR. MILLER: Your Honor, if I haven't already, I move for the admission of L-1, SW-34 and SW-33.

MR. QUINN: Objection to L-1 without some evidence that in fact that is Mr. Mizani's signature.

THE COURT: I'm going to certainly receive it. Do you have any comment on that?

MR. MILLER: No, Your Honor. We didn't have it matched for handwriting analysis. If they want to say somebody forged his name, they're welcome to.

MR. QUINN: I think the fundamental requirement of the government is to in fact establish that that in fact is his signature.

THE COURT: Well, I'm going to receive it for what it's worth.

BY MR. MILLER:

Q Now, did Mr. Mizani file tax returns for any of the -- did Mr. Mizani file tax returns for any of the years '90 through '93?

A Yes, he did.

Q What years?

A 1990, 1991, and 1992.

Q And were there any preparers, tax preparers, listed on those tax returns?

A Yes, there was.

Q And who are they?

A For 1990 and 1991, D.L. Smith, who operated Cash Bookkeeping Service, and for 1992 Farok Baik.

Q Do you know how to spell that?

A Last name B-A-I-K.

Q Have you interviewed Mr. Smith and Mr. Baik regarding their preparation of those returns?

A Yes, I have.

Q And first let's start with Mr. Smith. Did he tell you anything about where he got the information to put on or how he got the information to put on those returns?

MR. QUINN: Objection.

THE COURT: What is the basis?

MR. QUINN: It's hearsay.

THE COURT: In a sentencing?

MR. QUINN: I understand. There's still a requirement of an indicia of reliability. It's not just it's fair game.

THE COURT: Well, this is an officer, an agent. During the course of his investigation he interviewed the tax preparer and I think he can tell us what the person told him.

MR. QUINN: I'm not worried about him. The information is coming from the lips of somebody as to whom there is no indicia of reliability. That's why I don't think it should be admitted even considering the broad parameters that are available to you under a sentencing hearing.

THE COURT: Well, Mr. Quinn, I don't think it's necessary to put evidence on as to the reliability of what someone else says. I'm going to overrule it. Yes, you may tell us what this preparer told you.

THE WITNESS: The preparer, Mr. Smith, said he got the information for the return from Mr. Mizani.

BY MR. MILLER:

Q Did he tell you whether he reviewed any records that Mr. Mizani gave him?

A There were no records involved.

Q How did he get the information from Mr. Mizani?

A Mr. Mizani told him.

Q What about Mr. Baik, did you talk with him about the preparation of the '92 return?

A Yes, I did.

Q What did he say?

A He said that Mr. Mizani told him the numbers to put on the return.

MR. QUINN: I object as well.

THE COURT: I understand. Overruled. Mizani said what?

THE WITNESS: Mr. Baik said Mizani told him the numbers to put on the record.

BY MR. MILLER:

Q And did he tell you whether or not he reviewed any records to justify those numbers?

A I said he did not review any documents.

MR. MILLER: Court's indulgence one moment, please. About five more minutes, Your Honor, maybe even less and I'll be done.

BY MR. MILLER:

Q Special Agent Ross, have you reviewed any transcripts of depositions or sworn testimony given

by Mr. Ahmad Mizani in previous proceedings not related to this criminal case?

A Yes, I have.

Q What types of things have you reviewed?

A I reviewed approximately three depositions and one actual transcript of court testimony.

Q Let me show you, first of all, Government's Exhibit 27. What is that? And may I hand a copy up to the Court?

THE COURT: Yes. Thank you.

THE WITNESS: This is the deposition of Omid Ahmid Mizani taken on Monday August 4, 1994 in the matter in front of the Circuit Court for Montgomery County.

BY MR. MILLER:

Q And those are excerpts from that deposition?

MR. QUINN: Excuse me. I apologize, Mr. Miller, but I think he said Omid Ahmid Mizani. So there's no confusion, that's not who's listed as being the witness.

MR. MILLER: It's not?

MR. QUINN: No. It's Omid Ahmid Mizani. The deposition I have lists the name of the deponent as Omid, O-M-I-D, Ahmid, A-H-M-I-D, Mizani.

MR. MILLER: Is there going to be a dispute that this is the defendant, Mr. Quinn? Do you want me to pull out the whole deposition?

MR. QUINN: If you can allow me to consult Mr. McAuliffe, I'll answer that question for you in just a second: We concede, Mr. Miller, that in fact it is the defendant.

MR. MILLER: Thank you.

THE COURT: So it should be Ahmad?

MR. QUINN: That's correct.

MR. MILLER: Yes. I will certainly admit, Your Honor, that there are various spellings around, not entirely the fault of the defendant, because sometimes when it's taken down it's taken down with different spellings.

THE COURT: That's why my reporter just asked for the spelling. All right.

BY MR. MILLER:

Q Let me direct your attention to just one location in this excerpt. Would you turn to page 51, please, Special Agent Ross, and I'm going to read the questions and you read the answers, okay?

A Okay.

Q Starting at line 2. "That's interesting about Secaucus. One person has all the oriental rugs in Secaucus?

A "I know -- I know -- I know two -- three people there -- there. Four store. One woman have four store over there. It's the same person, different companies.

Q "Sort of like you do it around here?

A "Anybody do it. Sure. I have business with you is -- I have business with you is one name. I have business with this. I just say which people who are owning business."

Q Let me show you one other excerpt. Let me show you Government's Exhibit 28. Take a look at that and tell us what that is?

A It's a transcript of testimony of Omid, O-M-I-D, middle initial A, Mizani, M-I-Z-A-N-I.

Q Is this a deposition or is this trial testimony?

A This is trial testimony.

MR. MILLER: Mr. McAuliffe and Mr. Quinn, is there any dispute as to the fact that this is the defendant's testimony?

MR. QUINN: No, Mr. Miller, there isn't.

BY MR. MILLER:

Q Let me direct your attention, please, Special Agent Ross, to page 5 and have you read two quick excerpts here. Starting at line 13, I'll read the questions and you read the answers, okay."Question: You live where, sir?

A "10110 Chapel Road, Potomac.

Q "How long have you lived over there?

A "I don't know exactly. Maybe two and a half, three years.

Q "Married, single?

A "Married."

Q Now if you turn over to the next page I have in the transcript, page 10, I'm going to start at line 3. "All right. Is there a reason that you don't own anything anymore these days?

A "Well, we had a little bit problem with Ahmad International and I -- with the taxes, and they -- the Internal Revenue, they put 50,000 or $40,000 lien on Ahmad International and I talked to my lawyer. He said, well, you have to pay them. I said I lost money. I cannot, I said. You have to prove it. If you are -- I said, well, it is a lot of paperwork to prove it. And he asked me to please say you owe them and you don't have to pay for it if you don't have the money.

Q "Is that why you don't have any businesses in your name today?

A "If you want to put it that way, yes."

Q What was the date that this testimony was given by the defendant?

A November 28, 1994.

MR. MILLER: I have no further questions, Your Honor. This.

THE COURT: All right. Cross-examination.

MR. QUINN: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. QUINN:

Q Agent Ross, your efforts as designed on these exhibits were to in fact come to some computation of gross income; is that correct?

A Excuse me?

Q Your -- if I may, Your Honor. Your efforts in doing this analysis of cost of goods sold was to come to some measure of gross income; is that correct?

A That was the nature of the calculation, yes.

Q If you'll bear with me, I'd like to go through some of the basics associated with this case and this sentencing. I show you what's been marked as Exhibit 501 and that's Count 2 of this indictment in this particular case; isn't that correct?

A That would be correct.

Q Okay. And what Mr. Mizani was charged with in this particular case was failing to disclose gross income derived from the operation from a rug retail and auction business; is that correct?

A That's correct.

Q All right. Now, gross income is a term of art, is it not?

A I believe it's a legal term.

Q I would agree with you it's a legal term and it's actually -- it's a legal term and it's actually a term that, in fact, is contained within the IRS code; isn't that correct?

A Yes.

Q Section 61; is that correct?

A That's correct.

Q All right. And, in fact, when the IRS goes to the trouble of defining gross income, it lists 15 different examples of gross income; isn't that correct?

A That is correct.

Q All right. And among those examples are in fact gross income derived from a business, which is category 2; is that correct?

A That's correct.

Q And also gains derived from dealings in property; isn't that correct?

A That is correct.

Q And that deals with property of all kind, whether it's personal or real estate, tangible or intangible; isn't that correct?

A That's correct.

Q All right. It also deals with distributed share of partnership gross income; does it not?

A That is listed.

Q Now, when you did your investigation in this case, you investigated the criminal activities of Joanne Slater Mizani as well; isn't that correct?

A She was a focus of the investigation, yes.

Q She was?

A Yes.

Q As a matter of fact, the initial referral came to your attention as a result of a referral from a revenue officer not related to Eddie Mizani but related to Joanne Slater Mizani; isn't that correct?

A That's correct.

Q All right. And you indicated in your report that there was a conspiracy between Ahmad Mizani and Joanne Slater Mizani; isn't that correct?

A I named other parties as well.

Q I'm going to get to those, I promise you.

A All right.

Q But, in fact, as to Joanne Slater Mizani, you indicated that there was -- she was part and parcel to the whole thing; isn't that correct?

A The evidence that I reviewed, I made a recommendation that she was a party.

Q They were partners in this enterprise, partners in this business; isn't that correct?

MR. MILLER: Objection.

THE COURT: I'm going to overrule it. If he knows.

THE WITNESS: My analysis of the evidence, my discussions with witnesses led me to conclude that Mrs. Mizani was a nominee for Ahmad Mizani.

BY MR. QUINN:

Q What does "nominee" mean?

A It means to use someone's -- place someone's name on an asset or a business and yet still retain control, use, and benefits of ownership.

Q Well, all those bank accounts that you were questioned about by Mr. Miller were bank accounts that were legally titled in her name; isn't that correct?

A Her name is on the account.

Q Was there another name that was legally titled on that account?

A Which particular accounts are you speaking of?

Q Well, the ones that you identified. You didn't break it down when you testified. Is there any other -- Citizens Saving Bank, Joanne Slater Mizani, Dominion Bank First Union, Joanne Slater Mizani.

A I did not get the signature cards to see if there were other names on there. More than likely, they were probably just held in the name of Joanne Slater Mizani, okay, without reviewing the signature cards.

Q Fair enough. And this real estate that you described for the Court's attention is now all titled or at least up until the time of her death was all titled in the name of Joanne Slater Mizani; isn't that correct?

A That's correct.

Q All right. So, to the extent that there were efforts made to hide income from the IRS and to create a resultant tax loss, at least Joanne Slater Mizani ended up with the assets associated with that enterprise; is that correct?

A When you say she ended up with, sir --

Q She ended up owning the bank accounts. She ended up owning the houses; isn't that correct?

A They were in her name.
Q Now, in this particular case you also had as a target of your investigation Mr. Baik; isn't that correct?
A Yes, Mr. Baik.
Q Mr. Baik?
A Farok Baik.
Q My apologies to you and Mr. Baik. And Mr. Baik, in fact, prepared some tax returns for Joanne Slater Mizani, did he not?
A Yes. He testified that he did.
Q Now, you have testified over my objection relating to the reliability of Mr. Baik in this case, have you not?
A I heard your objections.
Q And you saw the Court overrule my objections?
A Yes.
Q Okay. In truth, if you recall your report, it was your conclusion that Mr. Baik lied to you; isn't that correct?
A That is correct.
Q And he lied to you on more than one occasion, did he not?
A I recall several instances from my initial interviews to later testimony.
Q All right. And an additional person involved in your investigation in this rug and retail business was Omid Mizani, Mr. Mizani's son; isn't that correct?
A I made a recommendation for Omid Mizani.
Q Because you described him as a partner, did you not?
A I described him as someone who assisted Mr. Mizani in hiding his businesses.
Q Okay. Let me see if I can pin you down a little bit. Didn't you describe him as a partner?
A If you have the -- I would review my --
Q You don't remember whether you did or you didn't?
A There may have been terminology used, okay, where Mr. Omid Mizani claimed to be a partner.

Q I see. He claimed to be a partner, but you didn't reach the conclusion that he was or he wasn't? Is that where we're missing each other?

A I believe so.

Q Okay. Fair enough. Now, of all of these types of gross income which we're here to determine, you analyzed only one; isn't that correct, item 2?

A Gross income derived from the business, meaning a Schedule C operation.

Q Is the answer to the question yes?

A Yes. That's what I would --

Q Of these 15 specific types, including item 13 and item 3, you only did an analysis of item 2; is that correct?

A I reviewed Mr. Mizani's financial position, okay, as it pertained to the tax return which he filed to the Internal Revenue Service.

Q The Schedule C?

A Schedule C and other attachments to the return, okay, the entire return.

Q Just so we're clear, the only analysis you did as to gross income for Mr. Mizani in this case in which he is being sentenced is a gross income from business activities analysis; isn't that correct?

A As far as to answer that particular question, there's indications that Mr. Mizani may have received rental income for his property. So to say that I excluded that from my investigation, no, I did not. I made my investigation based upon Mr. Mizani's and Mrs. Mizani's -- their entire financial picture, okay, as it pertained to Mr. Mizani's tax returns and Joanne Slater Mizani's lack of tax returns.

Q Let me direct your attention to this seized sales receipts analysis. I think that's Mr. Miller's Exhibit 2.

A Yes.

Q In any event, it's the one that lists all the numbers for the numbers of months and then it applies a percentage, et cetera; is that correct?

A That's correct.

Q All right. And, again, whereas Mr. Mizani may or may not have had rental income, you didn't include any of that?

A No, not in that analysis.

Q The only thing you did was a Schedule C analysis; isn't that correct?

A That's what my exhibit pertains to.

Q And that's based upon criteria 2 of the gross income definition under the tax code; isn't that correct?

A That would be the appropriate code.

Q You didn't do an analysis under item 3? You didn't do an analysis under item 13?

A You're saying "analysis," sir. I did an investigation as it pertains to all aspects of Mr. Mizani's financial position. You have an analysis in front of you of sales of rugs, okay. You're saying that my investigation was limited in its nature, okay.

Q You're probably right. The point is that you have come up with a number and it's a number based upon a Schedule C item; is that correct?

A Yes, that would be correct.

Q All right. And the reason you did that is because you are required to do that considering the indictment in this case and because that's what he's charged with, right, gross income?

A You put the indictment before the investigation, sir. There's a tax return where he uses the Schedule C, okay. He claims that to be his business. There is no formal partnership agreements, corporate entities that existed to put Mr. Mizani's income to another entity.

Q Except that you concluded that this was a joint enterprise with Omid Mizani, his son, and Joanne Slater Mizani, his wife; isn't that correct?

A They played a part in the conspiracy.

Q And you recommended that each of those individuals be indicted for the same offense that Mr. Mizani was indicted for?

A I recommended that they were parties to the conspiracy.

Q And the only reason Joanne Mizani was not indicted was the fact -- or presented for indictment was the fact that she drowned in the surf in Ocean City; isn't that right?

MR. MILLER: Objection.

THE COURT: Well, that's neither here nor there. Initially you felt they were part of a conspiracy.

BY MR. QUINN:

Q Exhibit 503 is a copy of the standard 1040 form that was used in this particular case for one of the tax years; is that correct, 1990?

A That's correct.

Q All right. And that requires you on line 12 to include business income or loss, fair enough?

A Yes.

Q Okay. And then we need to go to Schedule C; isn't that correct?

A That is correct.

Q Schedule C --

MS. JACKSON: Does that have a number?

MR. QUINN: Yes. I apologize. It's Exhibit 504.

BY MR. QUINN:

Q Schedule C provides the way that you can get to the very specific legal term or term of art involved in this case, gross income; isn't that correct?

A For that form.

Q Which is what you used?

A That is the Schedule C form that has gross income.

Q All right. Now, the first thing you enter is gross receipts or sales; isn't that correct?

A Correct.

Q And you have given an account of a list of gross receipts or sales totaling $4,824,563.57; isn't that correct?

A Correct.

Q All right. Now, you've had these records since when, Mr. Ross?

A March 29, 1995.

Q And what analysis did you perform with regard to the question of returns so as to make the initial adjustment necessary on this form to eventually get to gross income?

A My analysis was to determine first if there was tax evasion, okay. As far as analyzing particular expenses as they're contained on that particular form, I did not do that.

Q Okay. So, even though Exhibit 504 requires you in order to get to an accurate gross income number, you did not make any calculations for returns of goods; isn't that true?

A My calculation was to determine materiality of the false statement, which was gross receipts, which I determined to be 4.8 approximate million.

Q Okay. That's the point. You were relying on gross receipts; isn't that true?

A That was what I determined.

Q That's what's been added up here, gross receipts; isn't that correct?

A That's correct.

Q All right. You made no entry with regard to the question of returns; isn't that true?

A I did not consider that.

MR. MILLER: Returns?

MR. QUINN: Return as it exists on this form.

THE WITNESS: I did not consider that to be --

BY MR. QUINN:

Q You did not consider that to be relevant even though you testified a few minutes ago that with regard to the wholesalers that there was a pretty -- I forget what words you used -- pretty liberal return policy; isn't that true?

A Pertaining to wholesalers returning rugs, not to -- gross receipts talks about customers, okay. Returns and analysis talks about returns to end customers, okay. I was referring in my prior testimony to Mr. Mizani purchasing a rug from a wholesaler.

Q Okay. Isn't it true that returns at all levels of these transactions are common as it relates to this commodity?

MR. MILLER: Objection.

THE COURT: Well, if he knows.

THE WITNESS: I don't know.

BY MR. QUINN:

Q Don't know, okay. All right. Now, what calculation did you make with regard to allowances that would have been reflected in these records that were in your possession since March of 1995?

A None.

Q All right. Now, what you're supposed to do initially is to take the returns and allowances all on this road to gross income and subtract them from gross receipts or sales; is that correct?

A That's what the form says.

Q All right. All right. And that gives you a balance and from that balance you go to the cost of goods sold and/or operations from line 39; is that correct?

A Okay.

Q Is that correct?

A That's what the form says, sir.

Q Okay. This is the 1040 form that is the subject of one of the years of this sentencing, fair enough?

A Um-hm.

Q Let me show you Exhibit 505. Exhibit 505 is an IRS form that was part of the year that he is alleged to -- well, I think he did -- he acknowledged that he didn't do it right and he made a false statement. But this is the Schedule C form that's involved for this year 1990; is that right?

A That's what it appears to be.

Q Okay. Now, looking at line item No. 33, it has a very specific notation and that's the notation of purchases; is that correct?

A Yes.

Q And that's really what you added up. You added up his purchases; isn't that correct?

A No, that's not correct at all, sir. These are the -- these are --

Q His sales?

A Excuse me? We're talking about Exhibit 1. The 4.8 million is sales that Mr. Mizani made to customers in the course of business.

Q You're right. I'm wrong, because I pointed to the wrong page.

A Okay.

Q Okay. When you came to your calculation of cost of goods sold, you worked from his purchases; isn't that correct, his specific purchases from Pars Auto PVT Limited, which is part or Mr. Miller's exhibit package?

A That's an example that I used.

Q Okay. Well, that's what you did. You added up what those rugs cost pursuant to the invoices from Pars; isn't that correct?

A I didn't add them up, sir.

Q Didn't add them up. I'm not saying this well. You calculated square footage charges based upon the purchases he made; is that correct?

A Yes, sir, random.

Q Okay. So, in that way you came to calculate purchases, the purchase percentage as being a part of the cost of goods sold; isn't that true?

A That is the 34 percent that I arrived at.

Q Fair enough, okay. So the information you provided the Court is that the purchase percentage of his gross receipts based upon your analysis of the Pars invoices is 34 percent?

A That's the -- yes, the analysis that I was able to do.

Q Okay. Now, when you conducted your search warrant, you've testified that you actually searched several buildings; is that correct?

A The buildings contained on the property, yes.

Q You also executed a search warrant that day on Omid's property; isn't that correct?

A Yes.

Q Now, when you conducted this search warrant you made a notation in your report about there being some valuables within the house, rugs, antiques, things like that. Do you recall that?

A I don't recall in particular.

Q Did you make any effort to see whether any of the carpets that were on the floor -- were there carpets on the floor?

A There was numerous carpets throughout the house.

Q Throughout the house, okay. Did you make any analysis to determine whether or not any of those were items withdrawn for personal use?

A No.

Q Now, the records that you seized went back into the mid-eighties, did they not?

A There may have been records covering the 1980's.

Q So, what calculation based upon those documents did you make as to the inventory at the beginning of the year?

A None.

Q You had the percentage of the cost of purchases based upon your analysis in line 33. What did you compute the cost of labor to be in this cost of goods sold analysis for line 34?

A I did not do that calculation.

Q You had the percentage of purchases. What calculation did you make for the materials that are required to be considered in order to get to cost of goods sold at line 39 and gross income on the following page?

A I did not. I compared the cost of a rug to the purchase of a rug only.

Q You took the percentage of purchase price?

A Yes.

Q Okay. Of purchases as a percentage of what the cost of goods sold was. Okay. Am I correct that on line 35 there's a required analysis as to supplies?

A That's the line.

Q And you did not do that analysis as well; is that correct?

A I did not attempt to calculate that amount.

Q On line 36 there is a required -- all of these things are required, are they not, in order to get to a proper line 39?

A As that form is laid out, yes.

Q On line 36 there's an item for other costs. Did you make any calculation as to what those other costs would be in order to make an appropriate adjustment for purposes of cost of goods sold?

A For purposes of my calculation here, the 34 percent, no.

Q And I take it there was no effort to determine what the inventory was at the end of that year or any of the other years?

A No, because for all of those lines there was no record contained at Mr. Mizani's house, formal accounting documents, to list any of that out.

Q Formal accounting documents; is that correct? Is that the word you used?
A Yes, it was.
Q Okay. You didn't use formal accounting documents to come to this partial computation of cost of goods sold, did you?
A That was the best I could do, sir.
Q No, that wasn't my question. You didn't use formal accounting documents to get to this number which you describe as the gross receipts?
A That would be correct.
Q You didn't use any accounting documents to come up with this percentage of cost of goods sold that you rely upon; is that true?
A I missed part of that. Can you repeat it?
Q The normal accounting documents that you didn't have in other respects, you didn't have that as well with regard to computing cost of goods sold?
A No. My analysis was merely to attempt to locate a purchase of a rug through the ultimate sale of a like kind of rug.
Q But you were able to come to those numbers that you have offered in -- that the government has offered in evidence today by resort to the records that you found in those homes; is that correct?
A Those were the records available.
Q And there were other records available as well, were there not, sir?
A There was, yes, numerous records.
Q Okay. There were records associated with the cost of auction, true?
A There were numerous expense records.
Q There were numerous expense records; is that correct?
A That's correct.
Q And there were numerous bank records?
A Yes, sir.

Q There were numerous canceled checks?

A Yes, there were checks contained in the seized records.

Q There was all manner of business records. They just hadn't been put into normal accounting types of documents; isn't that a fair statement?

A Yes.

Q Now, in this particular case when you analyzed the bank records, you determined that there were substantial cash deposits made and reflected within these records; isn't that correct?

A In my deposit analysis, sir --

Q In your earlier version of that, yes.

A Approximately -- substantial? I recall total of about 70,000.

Q 70,000 in cash; is that correct?

A I wouldn't call that substantial compared to 5.6 million.

Q And those deposits are actually labeled? The ones associated with cash are actually labeled as cash; isn't that correct?

A Yes. It's called currency, yes.

Q Now, to your understanding, Mr. Ross, was this execution of the search warrant a surprise for Mr. Mizani and his late wife?

A I would assume, sir. I didn't tell them we were coming.

Q All right. And didn't you find a surprising lot of business records for a business in which the point of all this tax difficulty was to hide income?

A I don't understand your question.

Q Well, if I'm trying to rip off the government, is it more or less likely that I'm going to keep 40 boxes of business records at my home?

A In my experience people keep a double set of books, sir. So, to find expense records is not unusual.

Q And if I'm trying to rip off the government, is it unusual that I would deposit cash and reflect it as such?

A No, sir.

Q Now, the one thing you did do with regard to complying with this form is that you made an analysis of the purchase cost from one supplier and computed that into an overall cost of goods sold percentage of 34 percent; is that correct?

A That's the general basis for my calculation, yes.

Q Now, that supplier was one of how many?

A There were numerous importers and wholesalers.

Q And we can break the suppliers into two categories. I think you did that in response to Mr. Miller's question. One was importers and the others were wholesalers; is that correct?

A I used that term, yes.

Q How many importers were there?

A I didn't count, sir.

Q Was there more than 10?

A Probably, sir. Like I said, I didn't count particular number of importers or wholesalers.

Q So, your answer to my question about how many wholesalers there was, you didn't count them? You don't know either?

A No. There was more than one.

Q All right. Now, you did your analysis of this Pars invoice based upon -- looks like five sheets; is that right, either five or six?

A Five sample invoices?

Q Yes.

A That is my analysis. It was done post-indictment to get an estimate of cost of sales.

Q And to get this square footage cost and then compute the percentage of purchases, percentages as a cost, you examined five sheets from Pars; is that correct?

A That was -- yes.

MR. QUINN: May I have your indulgence for just a moment, Your Honor?

THE COURT: All right.

MR. QUINN: Your Honor, that would conclude my portion of the cross-examination.

THE COURT: All right, Mr. McAuliffe.

MR. MCAULIFFE: Thank you, Your Honor. If I can have a moment, I need to move some notes so I don't repeat what Mr. Quinn has already covered.

CROSS-EXAMINATION

BY MR. MCAULIFFE:

Q Agent Ross, you testified -- I believe your testimony is that there were numerous wholesalers of rugs, correct?

A There appeared to be several files. Like I said, I did not count them.

Q There were 19 files of separate wholesalers, weren't there?

A Like I said, I didn't count them, sir.

Q You had them in two separate boxes? Do you remember there were two separate boxes? I know you didn't count the files. In your office when I came there, there were two separate boxes with those wholesalers?

A Actually, you're making a conclusion, sir, okay. I had pulled those files as potential witnesses, people to talk to, okay. There were 40 other boxes that contained vendor files, okay. There were invoices from wholesalers that weren't in that box. So, I did not count them.

Q Okay.

A In your analysis of 19 --

Q So, those numbers -- we're just talking about the two boxes that you pulled in terms of talking to witnesses?

A As I segregated from the search warrant records.

Q Agent Ross, I'm going to show you those that were pulled out of those two boxes and I'll ask you if you recognize -- these are just the wholesaler -- these to be the files from the wholesalers of the two boxes? Do you recognize those -- and then some of the files are in different colors because they were put in files in my office -- but the documents themselves?

A I'm looking at the names. They appear to cover some of the names that were contained in that box, yes.

Q And you recognize those documents as being documents which I photocopied or I had office staff from my office photocopy from your office in Wheaton; is that right?

A I'll take your word you copied them, yes.

MR. MCAULIFFE: Your Honor, at this time I would offer Exhibits 100 through 111. Some of these have been grouped together.

THE COURT: All right. They will be received.

BY MR. MCAULIFFE:

Q Now, Agent Ross, I'd like to turn to the analysis which I believe you used the term "cost of goods sold," the spread sheet that you described earlier in your testimony, and the cost that you reached and you described it earlier. For example, No. 1, Helen Doner is $192?

A That's correct.

Q And you calculated that, you've already told us, based on the Pars invoice, right?

A That's the basis.

Q And when Mr. Mizani or anyone else imports rugs from India through Pars, there's a customs fee, correct?

A I'm not an expert in the importation, but there were indications that certain type expenses were associated to it.

Q And how much were those expenses for customs fees?

A I did not analyze that, sir.

Q How about broker fees? You had broker receipts, didn't you?

A I did not analyze those, sir. My calculation was merely to take the purchase of a like kind rug to the ultimate sale of a like kind rug and compare the cost of that rug.

Q Well, you're comparing the cost of the rug that was paid at Pars, right?

A Just the basic $8 a square foot charge.

Q But you don't know how much the customs fee would be on any given rug?

A I did not analyze it.

MR. MILLER: Objection, Your Honor. Mr. Quinn already went through line-by-line the cost of goods sold from the Schedule C. I think Mr. McAuliffe in more detail now is going over that same ground again.

THE COURT: Well, I think his testimony as to what he did and I think Mr. McAuliffe is pointing out that there are certain items he did not take into consideration. Overrule the objection.

MR. MCAULIFFE: Thank you.

BY MR. MCAULIFFE:

Q So you didn't include any customs fees, correct?

A No. My calculation is simply based upon the -- it was the best calculation I could do, what a rug that was -- let me back up. My analysis of how cursory it was of the cost of sales, it was difficult to actually track a rug from the purchase of a wholesaler or the purchase of an importer directly through to the end sale, okay, to a customer, okay. The records were not in order. There was no formalized accounting to keep track of that. So, my review showed that Mr.

Mizani during the 1990's was importing a substantial amount of rugs. I --

Q Sir, that's not what I asked you.

MR. MILLER: Objection.

THE COURT: I think he's trying to explain his methodology. Let him finish. Go ahead. Wrap up your testimony.

THE WITNESS: My analysis showed -- my review showed substantial import records, okay. I attempted to match the sale to an end customer of a rug to the purchase, importation of a like kind rug, okay. So, if it was a Kashan four-by-six, okay, that was sold, I attempted to determine the cost of that four-by-six as it was imported into the country using the mere cost per square foot.

BY MR. MCAULIFFE:

Q Well, you say that you're considering the cost of importing it into the country, sir. But you didn't include all those costs, did you?

A As I said, I only analyzed the cost of the rug, okay, the cost of the --

Q The cost that you pay to the supplier?

A The cost that's on the invoice.

Q And that's the amount that he would pay to Pars?

A That's correct.

Q And you did not include anything for customs fees or broker fees, right?

A No, I did not.

Q You didn't include anything for warehouse fees?

A No, I did not.

Q You didn't include anything for trucking fees?

A No, I did not.

Q Didn't include anything for insurance or bonds, did you?

A As it pertained to insurance in this country, no, I did not.

Q As far as insuring it once the ship got it to this country --

A Once we get it into the country.

Q Okay. You didn't include anything for the laborers, to hire people to go up and get the rugs from the warehouse and put them in a truck?

A No, I did not.

Q You didn't include anything for hiring a truck driver to go get them?

A No, I did not.

Q You didn't include anything for renting the truck to go get it?

A No, I did not.

Q You don't contend that those costs would be zero, do you?

A I did not analyze them. I don't know specifically what they would be.

Q I understand you don't know specifically, but you're not here saying that it's zero?

A If he spent one dollar in customs fees, it's not zero, but like I said, I didn't analyze it.

Q Well, Agent Ross, when he brings in the rugs, they're imported, right? They're brought to whatever the port is?

A Yes.

Q Okay. Those rugs, after whatever processes and whatever costs are incurred, they're brought to the importer, whether it be Mr. Mizani, whether it be Mr. Kuraishi or whoever it is, right?

A If that's the arrangement they make.

Q Well, somehow the rugs get to the person buying them, right?

A Correct.

Q Now, how many of those rugs are sellable?

A I don't know, sir.

Q Do you have any information as to what percentage of the rugs would be damaged in the course of transport?

A I have no information pertaining to that, sir.

Q Did you ever ask anybody about any of these things?

A No, I did not, sir.

Q I want you to turn to your example again in cost of goods sold, No. 12, which is -- actually, excuse me -- No. 7.

A Just provide me the name.

Q Anthony A. Peso.

A Okay.

Q That's a silk Kashan rug, three-by-two, correct?

A Yes.

Q And which invoice from Pars did you use to corroborate that, the cost of that rug?

A Do you want me to count pages back for you, sir?

Q I'm assuming I have the same one, but in order for His Honor to know what page you're referring to, which page, because these numbers are not numbered?

THE COURT: Well, I have the spread sheet. I have it.

BY MR. MCAULIFFE:

Q I'm referring to an invoice from Pars. Where did that number come from?

A I have it as the twelfth page back.

Q So that I make sure we're on the right page, that's dated April 15, 1991 on the top right?

A That's correct.

THE COURT: April what, 15? Let me count my pages here. How many pages beyond the spread sheet is it?

MR. MILLER: The tenth page beyond the spread sheet, Your Honor.

THE COURT: All right. I have it.

BY MR. MCAULIFFE:

Q And that's again, April 15, 1991. The number at the top left so that we refer to the right page is PAL/048/91-92; is that right?

A That's correct.

Q Now, this is an invoice for -- under "Particulars" it says "16/16 Quality - Indian Hand-knotted art silk carpets," right?

A That's what it says.

Q And that's what you used to compute the square footage, the cost per square foot?

A Yes, for those examples.

Q And that's how you -- you used that to calculate what a similar type of rug would cost, similar to the one that Mr. Mizani, according to your spread sheet sold in example number seven --

A That is my --

Q -- to Anthony Peso?

A Yes, my spread sheet uses that number.

Q Why is it that you used an invoice from Pars -- well, the invoice from Pars is for artificial silk, isn't it?

A I didn't realize that until it was pointed out to me, okay.

Q Okay. But you would agree with me that this is an invoice for artificial silk that was sold to Chanel Oriental Rug Gallery when in fact the invoice on the sale doesn't say artificial silk, it says silk?

A I'm not an expert on rugs. I thought I was comparing the same thing.

Q I understand. It was an oversight on your part. Would you agree with that?

A Oversight, mistake, yes. I didn't know that there was a difference or I didn't know that artificial silk was --

Q Agent Ross, you told us before that the B. Price and the S. Price -- well, first of all, with the S. Price you said that might be more or less than the actual sale price, right?

A Just based upon the brief analysis that I did.

MR. MCAULIFFE: Your Honor, may I have a brief recess for a moment? I want to make sure I don't become redundant.

THE COURT: All right. Let's go ahead and take 10 minutes.

MR. MCAULIFFE: Thank you.

(Proceedings recessed from 12:15 to 12:40 p.m.)

MR. QUINN: Thank you for indulging me, Your Honor.

THE COURT: Yes, sir.

MR. MCAULIFFE: Thank you. Your Honor, before proceeding further, I realized that when I handed the last exhibit up, I included a folder by mistake. If I can retrieve that.

THE COURT: Okay. Yes.

MR. MCAULIFFE: No further questions.

THE COURT: All right. Does the government have any redirect?

MR. MILLER: Well, Your Honor, I do have some brief redirect, but I will say one thing before I do that, if the Court please. My structuring of my questioning of Agent Ross and any rebuttal was based on the list of nine witnesses that I received from defense counsel about a week and a half ago. At the beginning of the session today Mr. Quinn, I believe, stated that they were calling up to seven. I asked Mr. Quinn during the break if he could tell me who the people are he's calling and who he's not calling. Mr. Quinn informed me that that was one of the reasons for the break. They needed to check. I asked him at the end and he

informed me that he would not tell me who they're calling at this point. As a result of that, Your Honor, with the Court's permission, I'm going to limit my redirect at this point with Agent Ross to what was brought up on rebuttal, but I feel like I might get sandbagged. There's things that I want to bring out but, quite frankly, I don't want to bring out until I get to cross-examine some of their witnesses. So, if the Court will give me some leeway on my rebuttal case with Agent Ross, I will limit my redirect at this time. It will be very brief.

THE COURT: Well, your basic redirect is limited anyway to what was brought out on cross, and to the extent that you wish to recall him during your rebuttal, I certainly will permit that.

MR. MILLER: Well, Your Honor, there are things that I could get into based on some of the stuff that was --

THE COURT: Okay. We don't know where we're going with this. We'll be fair to both sides and listen to people. I have allowed the entire day available for you all. I know that that doesn't make probation happy. I know you all like to get out of here, but I'm prepared to listen and see if we can get a handle on this.

MR. MILLER: Thank you, Your Honor.

REDIRECT EXAMINATION

BY MR. MILLER:

Q Agent Ross, do you recall I believe it was Mr. Quinn who asked you whether Mr. Baik prepared tax returns for Joanne Mizani?

A Yes.

Q Did you talk to him about those returns?

A Yes, I did.

Q Did Mr. Baik tell you who gave him the information for Joanne Slater Mizani's returns?

A Yes, he did.

Q Who gave him that information?

A Mr. Mizani.

Q Mr. Quinn asked you a variety of questions about whether you recommended that Joanne Mizani and Omid Mizani be included in the charges; is that correct?

A That is correct.

Q Did you in your report recommend them as coconspirators?

A Yes, I did.

Q And Mr. Quinn asked you a variety of questions about their role; is that right?

A That is correct.

Q Could you tell the Court what your determination was of what their role was in all of this and whether --

THE COURT: Who is "they"? Which one?

MR. MILLER: I'm sorry.

BY MR. MILLER:

Q Joanne Slater Mizani, the wife, and Omid Mizani, Mr. Mizani's son?

A In my investigation I recommended that Joanne Slater Mizani was a coconspirator, as she was the nominee for Mr. Mizani's businesses and his assets. My recommendation on Omid Kayvan Mizani, Mr. Mizani's son, was on the basis that he assisted in the

operation of the business and he also assisted in covering up the ownership of the businesses for Mr. Mizani.

Q Did you determine that they were -- did you or did you not determine that they were legitimate business partners as that term is usually used in business?

MR. QUINN: Objection.

THE COURT: Yes, as to the form. What, if anything, did you determine with reference to a partnership? Let's put it that way.

THE WITNESS: I did not see a formal partnership agreement or corporate papers laying out a business agreement for the operation of the various business names.

THE COURT: You didn't see any?

THE WITNESS: Did not see any.

BY MR. MILLER:

Q By the way, just so the record is clear, do you know what Mr. Mizani, the defendant Mr. Mizani's, full name is?

A Omid Ahmad Mizani.

Q And Omid is O-M-I-D?

A Yes.

Q Ahmad is what?

A A-H-M-A-D.

Q Okay. And Mr. Mizani's son, what is his full name?

A Omid, Kayvan Mizani.

Q Kayvan is K-A-Y-V-A-N?

A That is correct.

Q So they both have the first name Omid but the middle name differs; is that right?

A Correct.

Q Now, Mr. Quinn, I believe, asked you about returns, returns and allowances. Do you recall those questions?

A Yes.

Q And I believe you brought up in your direct testimony with Mr. Quinn about documentation regarding returns for wholesalers?

A Yes.

Q Could you tell the judge what you were talking about with that?

A I thought Mr. Quinn was confusing the actual returns by an end customer of a rug with the arrangements that Mr. Mizani or a rug merchant would have with his supplier. There are terms for purchases of a rug from a wholesaler. They can be paid -- my understanding is you can pay them directly. As you walk out the door, you give them the money for the rugs, or there is credit, or they use the terminology consignment, meaning you can hold that rug and if you sell it, pay me for it when you sell it, and if you don't sell it, you can return it to me.

Q And did you see evidence of returning rugs to wholesalers from any of Mr. Mizani's businesses?

A Actually, that came from speaking with the wholesalers that that was the arrangement.

Q Did you see any evidence or talk with anybody that indicated returns of rugs that were sold, actually rugs that Mr. Mizani or any of the entities sold to customers?

A There may have been some invoices or some correspondence pertaining to rugs returned by customers and, as I think now, maybe some of the seized records pertaining to wholesalers, there may have been notations crossed out "Returned," meaning they returned it to the wholesaler.

Q Okay. Now, let me ask you one last question regarding the spread sheet, Government's Exhibit No. 1. Mr. McAuliffe asked you about the entry from the Pars invoice dated April 15, 1991; is that correct?

A That's correct.

Q And he indicated over here the description of the rugs as art silk rugs -- art silk carpets; is that right?

A That's correct.

Q Do you have any personal knowledge as to what art silk carpets means?

A Not when I initially reviewed that document.

Q Other than reading papers filed by the defense, do you have any information about what art silk carpets means?

A It means artificial silk.

Q Where did you get that information?

A From the defendant's attorney.

Q Well, that's what I mean. Other than the information that the defendant's attorneys provided, do you have any other information as to what art silk carpets means?

A No, I do not.

Q And on the sales receipt right in front of that -- Margaret Fairbanks, was that the one you were referring to, Mr. McAuliffe, or perhaps it was one of the others? I don't have the name up here. Anthony Peso?

MR. MCAULIFFE: Peso.

BY MR. MILLER:

Q Anthony Peso. There is an indication -- a couple of indications on here of silk; is that correct?

A That's correct.

Q And do you have any personal knowledge when this was filled out whether that indicates a silk rug or an artificial silk rug or any other type of silk rug?

A It just identifies it as silk.

MR. MILLER: I have no further questions, Your Honor.

MR. QUINN: Nothing further, Your Honor.

THE COURT: All right. You may stand down. Government have any other witnesses?

MR. MILLER: No further witnesses, Your Honor.

THE COURT: All right. Let's go ahead and start the defense witnesses.

MR. QUINN: Your Honor, it would be the position of the defense that the government has not met its burden. As a consequence of taking that position, we will not be calling any witnesses on this issue.

THE COURT: All right. That's your decision?

MR. QUINN: Yes, sir, it is.

THE COURT: All right. What I'll do, then --

MR. MILLER: If that be the case, Your Honor, there is one set of documents I would like to put in, and it goes to questions that Your Honor asked. If there are going to be no witnesses called, it will take about 10 or 15 minutes.

THE COURT: You have someone to testify?

MR. MILLER: Agent Ross can testify to it, Your Honor. This is why I feel like I'm being sandbagged, Your Honor. That's why I asked during the break.

MR. QUINN: Your Honor, may I just -- I don't understand this sandbag comment. I don't understand that at all. The government has the burden here and the government was given an opportunity to present evidence and we had an opportunity and I think a duty to measure that evidence and to make a decision as to how best to proceed. Sandbagging? I just don't understand that comment.

THE COURT: I don't personally get into labeling. I hear a lot of things that lawyers mention and describe, but I don't really get into that type of

finger-pointing. The idea is that I told the government that I would be reasonable and fair with them. I'm going to permit them to recall the witness. If they have some records that I feel would be helpful to the Court, that would be relevant, I certainly will hear it, and that's not finger-pointing at anyone. You gave me what you considered to be a list of potential witnesses.

MR. QUINN: That's right.

THE COURT: You can make a decision whether you want to call them or not. That's fine. But I'm here to see whether I can determine value of the loss and the Court is going to give either side an opportunity to give me information to assist me in that process. I will permit the government, since you are not putting any additional witnesses on --

MR. QUINN: I don't know what the exhibit is.

THE COURT: And if you have to put a witness on to rebut that, I'm going to permit it.

MR. QUINN: Or a series of witnesses.

THE COURT: No problem.

MR. QUINN: Thank you.

THE COURT: No problem.

MR. QUINN: I just --

THE COURT: We're not getting into name calling.

MR. QUINN: I just don't understand this comment.

THE COURT: All right, Mr. Miller, Let's put the agent back on. If you have additional records, put him back on.

MR. MILLER: Thank you, Your Honor.

THE COURT: We still have the rule on witnesses. Do we have any? All right.

THE DEPUTY CLERK: You're still under oath.

JEFFREY WILLIAM ROSS,
GOVERNMENT'S WITNESS, PREVIOUSLY SWORN
REDIRECT EXAMINATION - RESUMED

BY MR. MILLER:

Q Agent Ross, was Mr. Mizani present on the day that his home was searched?

A Yes, he was.

Q And were any items from his person searched?

A Yes.

Q What was that?

A The contents of Mr. Mizani's wallet.

Q And was an inventory made of those contents?

A Yes, it was.

Q Let me show you Government's Exhibit 16. Do you recognize Government's Exhibit 16?

A Yes, I do.

Q What is that?

A This is the inventory of the items that were located in Mr. Mizani's wallet.

MR. MILLER: Move for the admission of Government's Exhibit 16, Your Honor.

THE COURT: All right. It will be received.

BY MR. MILLER:

Q Let me direct your attention to a few of the items. Let me ask you first were any items found in Mr. Mizani's wallet with his wife's name on them?

A Yes, there were.

Q For example, items 6 and 7, what are those?

A Those are credit cards.

Q In whose name?

A Joanne S. Mizani.

Q Let me direct your attention to item 12. What's that?

A It is a blank check for an account in the name of The Shan Aramis.

Q I might be looking at the wrong one.

A I'm sorry.
Q No. 12.
A It's an AT&T corporate card in the name of Benjamin Cruz.
Q Who is Benjamin Cruz?
A He's an employee of Mr. Mizani's.
Q And have you spoken with him?
A Yes, I have.
Q How was he paid?
A He was paid in cash, $50 a day.
Q And what did he do for Mr. Mizani?
A He moved rugs.
Q Was he an owner or partner in any of these businesses?
A No, he was not.
Q Let me direct your attention to item 26. What is that?
A Item 26 is a Giant Food check cashing card in the name of Harold Gordon.
Q What's the address for Mr. Gordon on the check cashing card?
A 6904 West Avenue.
Q And where were all these items found?
A On Mr. Mizani's person, in his wallet.
Q Take a look at item 49. What is item 49?
A It is a piece of paper that contained the name or the words "Oriental Rug Auction, 9155 Brookville Road, Silver Spring, Maryland, 20910, 1810."
Q And was there another name written on it?
A Yes, "Katz/Robert."
Q Did it have Mr. Katz's social security number and date of birth?
A Yes, it did.
Q And what address did it list for Mr. Katz?
A 10100 Kentsdale Drive, Potomac, Maryland.
Q Now, some of those names there, Katz and Gordon, did you find other documents with those names on them in the search warrant?

A Yes, I did.

Q Let me show you Government's Exhibit SW-40. I show you Government's Exhibit SW-40. Do you recognize that?

A Yes, I do.

Q What is it?

A This is a file that was found at the residence of Mr. Mizani.

Q And was it actually found in this file?

A It was found in this manner, yes.

Q Except for these little yellow tags; is that correct?

A Except for the tags and the evidence sticker.

MR. MILLER: Move for the admission of SW-40, Your Honor.

THE COURT: All right.

MR. QUINN: I object. I don't know what the relevance is.

THE COURT: You object? I don't know what it is. What is it?

MR. MILLER: I'll have the witness testify to it. It is a file of Xeroxes of grant applications to the Health and Human Services in a variety of names, some of the names that we just heard, Harold Gordon, and Richard Deni, Benjamin Handan, Robert Katz. Gordon and Katz, the ones we've heard so far, are included in here, and I have other documents seized from the house showing them listed as owners of some of these various businesses.

THE COURT: All right. I'll receive it over the objection of counsel.

BY MR. MILLER:

Q Let me turn to the first tab that I have there. I have put a tab on what says Richard Deni; is that correct?

A That's correct.

Q What page is tabbed there?
A I don't understand your question.
Q Actually, let me ask you first, what are all these documents in this file?
A They appear to be grant applications to the Department of Health and Public Service for research grants.
Q And are they all in the same name or are they in different names?
A Numerous names. It only appears to be one or so pages per request.
Q And does Mr. Mizani or his wife or his son appear on any of these requests?
A No. I reviewed the file, did not see their name.
Q Okay. And I have tabbed four of these requests; is that correct?
A That is correct.
Q And whose names are those names, the four I have tabbed?
A The name here is Richard Deni.
Q How is that spelled?
A Deni, D-E-N-I.
Q Okay.
A The second one is Robert Bennett Katz, K-A-T-Z.
Q All right.
A Harold W. Gordon, G-O-R-D-O-N. And the fourth is Benjamin L. Handan, H-A-N-D-A-N.
Q For all those individuals and the other individuals listed in there, do those forms or do they not contain identifying information like social security number, dates of birth, things of that nature?
A I see social security numbers. I see their social security numbers.
Q Okay. Now, during the search did you seize other documents that had these various names on them?
A Yes, I did.
Q And Mr. Cruz's name as well?

A That is correct.

MR. MILLER: I'm giving a set of exhibits to defense counsel, Your Honor, for them to review.

THE COURT: These records were seized at the search warrant?

MR. MILLER: Yes, sir.

THE COURT: I see.

BY MR. MILLER:

Q Let me show you, first of all, Government's Exhibit SW-44. What is that?

A This is an American Express corporate credit card. It's held in the name of Robert Katz, Oriental Rug Auction.

Q Where was this found?

A This was found in the garage at Chapel Road.

Mr. MILLER: Move for the admission of SW-44, Your Honor.

THE COURT: All right.

MR. QUINN: Objection.

THE COURT: Over the objection on these exhibits, I will -- let me hear the identification. Then I'll rule. There is objection.

MR. QUINN: I do object.

THE COURT: All right.

BY MR. MILLER:

Q What about SW-45, do you recognize that?

A Yes, I do.

Q What is it?

A This is an application for certificate of registration to the New York State Department of Taxation and Finance/Sales Tax.

Q And is this in a particular company's name?

A Yes, it is.

Q What is it?

A U.S. Capital Auction.

Q Where was this document found, by the way?

A This was found at Chapel Road.
Q And is there a section in the middle of the first page where owners or partners are listed?
A Yes, there is.
Q And who is listed?
A The first owner is Harold Gordon. The second owner is Brian Brickley. The third owner is Ahmad Mizani.
Q And are there signature lines at the bottom of the page?
A Yes, there is.
Q Whose signatures appear there?
A Harold Gordon and Ahmad Mizani.
Q Could you turn to the last page. Is there a signature on that page?
A Yes.
Q What is it?
A Omid A. Mizani.
Q And does he list what his title is?
A Yes, partner.
Q And do any of these names, Harold Gordon, Brian Brickley, or Ahmad Mizani, appear in the seized records SW-40, the various grant applications?
A Yes, Harold Gordon.

MR. MILLER: I would move for SW-45, Your Honor.

THE COURT: All right. There's been an objection. Just go ahead through the exhibits.

MR. MILLER: I'm sorry, Your Honor.

BY MR. MILLER:

Q SW-47, do you recognize that?
A Yes, I do.
Q What is it?
A It's an application for credit to the Morning Call.
Q And is that in a company name?
A Yes, Action Auction.
Q Where was this document seized?
A From Chapel Road.

Q Are there any owners listed under the ownership section?

A Yes. The first owner is Deni, Richard. The second owner is Eddie -- I'm going to have to spell it -- M-O-S-A-V-I. The third name is Ed Parviz, P-A-R-V-I-Z.

Q And does the first ownership name, Deni, Richard, have any link to SW-40?

A Yes, it does.

Q What's that?

A That is the spelling of the name and the social security number that's listed in SW-40 for Richard Deni.

Q Okay. So the name is backwards but the same number; is that correct?

A That's correct.

Q Let me show you SW-48. Do you recognize that?

A Yes, I do.

Q What is it?

A It's a merchant processing agreement for Financial Alliance Processing Services.

Q And is that in a particular company name?

A King's Auction.

Q And is there an owner listed on that?

A Yes.

Q Who is that?

A Benjamin Cruz.

Q Have you spoken to Mr. Cruz?

A Yes, I have.

Q And what did he do?

MR. QUINN: Objection.

THE COURT: What did he do?

MR. MILLER: For a living.

THE COURT: Did you talk with him? Did you talk with him?

THE WITNESS: Yes, I did.

THE COURT: During the course of your investigation?
THE WITNESS: Yes.
THE COURT: All right. I'll overrule it.
BY MR. MILLER:
Q What did he do for a living?
A He moved rugs for Mr. Mizani.
Q And did you ask him whether he was an owner of King's Auction or any of these other businesses?
A Yes, I did.
Q What did he say?
A He said he --
MR. QUINN: Objection.
THE COURT: Overruled.
THE WITNESS: He said he was not an owner.
BY MR. MILLER:
Q Is there an address listed there for Mr. Cruz?
A Yes. 10110 Chapel Road, Potomac, Maryland.
Q And whose house is that?
A Mr. Mizani's.
Q Is there a social security number listed for Mr. Cruz?
A Yes.
Q What is it?
A 577-70-1902.
Q And whose social security number is that?
A I believe that's Mr. Mizani's.
Q Let me show you SW-49. Do you recognize that?
A Yes, I do.
Q What is it?
A It's an application for credit to the Burlington Free Press.
Q In what company name?
A New York Auction.
Q And is there a partner listed on there?
A Yes.
Q Who is that?
A Benjamin Hendon, H-E-N-D-O-N.

Q And does that bear any relation to any of the names that I've tabbed in SW-40?

A Yes, it does. It has the same name and social security number as listed in SW-40.

Q Is there an address listed for Mr. Hendon on the exhibit you have in your hand, SW-49?

A Yes, there is.

Q What is it?

A 2801 Quebec Street, Washington, D.C.

Q Do you know whose address that was?

A Mr. Mizani's driver's license was issued to that address.

Q Let me show you Government's Exhibit SW-52. Do you recognize that?

A Yes, I do.

Q What is it?

A It's a fax or it's an advertisement request for Action Auction.

Q And where was this seized?

A This was seized from Chapel Road.

Q And on the second page of that is there an owner listed for Action Auction down under the ownership block?

A Yes, there is.

Q Who is that?

A Robert Katz.

Q And does that name link to any of the names in SW-40?

A Yes, it does.

Q Finally, let me show you Government's Exhibit SW-54. Do you recognize that?

A Yes. It's an application for credit to the Burlington Free Press.

Q And what company name is that in?

A U.S. Capital Auction.

Q And where was this seized?

A From Chapel Road.

Q Is there an owner or a partner listed on this one?
A Yes.
Q Who is it?
A Benjamin Cruz.
Q And is there an address listed for Mr. Cruz?
A 2801 Quebec Street, Northwest, Washington, D.C.
Q And, again, whose address was that?
A Mr. Mizani's.

MR. MILLER: I have one other area to go into, Your Honor, and then I'm done. Hopefully about five minutes, with the Court's permission.

THE COURT: Well, we're going to have to break. I have to give the other side an opportunity to cross on these records that you have presented. So we may as well come on back now. Let's go on and take an hour recess.

MR. QUINN: Your Honor, if it's of any help to you in your schedule, I don't anticipate crossing on any of those exhibits so far.

THE COURT: All right. Let's go ahead. Let's go ahead.

BY MR. MILLER:

Q Special Agent Ross, did you interview an individual during the course of the investigation named William Lane?
A Yes, I did.
Q Who is Mr. Lane?
A Mr. Lane is a vice president and insurance salesman for Avon-Dixon Insurance.
Q And why were you talking to Mr. Lane?
A Mr. Lane provided insurance to stores owned by Mr. Mizani and for Mr. Mizani's personal assets.

Q And did Mr. Lane's company -- you're aware that there was a store called Chanel Oriental Rug Gallery in Easton, Maryland?

A Yes, I was.

Q Did Mr. Lane's company insure that store?

A Yes, he did.

Q Did you talk to Mr. Lane at all about whether he had any dealings with Mr. Mizani?

A Yes.

Q What did he say?

MR. QUINN: Objection.

THE COURT: Overruled.

THE WITNESS: Mr. Lane said he initially met with Mosina Hahn in regards to the Easton store and then Mr. Mizani came into the picture for insuring the Easton store as well as the store on Wisconsin Avenue, also called Chanel.

BY MR. MILLER:

Q What's the location on Wisconsin Avenue?

A 7007 Wisconsin Avenue.

Q Did Mr. Lane have any discussions with Mr. Mizani regarding who was the owner of Chanel Oriental Rug Gallery in Easton?

MR. QUINN: Objection.

THE COURT: Overruled. Did you have any discussion?

THE WITNESS: Yes, I did.

BY MR. MILLER:

Q What did Mr. Lane tell you?

A Mr. Lane --

MR. QUINN: Objection.

THE COURT: Overruled.

THE WITNESS: Mr. Lane said that Ahmad Mizani owned the 16 store in Easton.

BY MR. MILLER:

Q And how did he know that?

A Mr. Mizani told him.

MR. QUINN: Objection.

THE COURT: I'm going to overrule it. That's what he told you?

THE WITNESS: Yes.

BY MR. MILLER:

Q What about the inventory at the Easton Chanel store, did you ask Mr. Lane if he had any information about who owned that?

A Mr. Lane was asked who owned the inventory and he responded Mr. Mizani owned the inventory.

MR. QUINN: Objection. Move to strike.

THE COURT: Overruled.

BY MR. MILLER:

Q Did he tell you how he knew that?

A Mr. Mizani told him.

Q Now, did you get any insurance records, policy records, that sort of thing from Mr. Lane?

A Yes.

Q And let me show you Government's Exhibit I-4. Your Honor, I think I neglected to move into evidence all the SW exhibits I went over with Agent Ross regarding the various other names. There was a standing objection to all of those and I think the Court was reserving on it.

THE COURT: Yes. Mr. Quinn, you objected to all of those items that were recovered under the search warrant?

MR. QUINN: That's correct, sir.

THE COURT: And what is the basis for your objection?

MR. QUINN: Relevancy.

THE COURT: Relevancy? Okay. I would overrule that. I do feel that at this point they appear to be relevant. I don't know what's being argued by the defense as to the liability of Mr. Mizani himself

individually, but they appear to be relevant. I'm going to overrule that. All right. I admit all those, Mr. Miller.

MR. MILLER: Thank you, Your Honor.

BY MR. MILLER:

Q Let me show you Government's Exhibit I-4. Do you recognize that, Agent Ross?

A Yes, I do.

Q What is it?

A This is the bond applications, bond and insurance policies that were received from William Lane.

Q And the bonding for who?

A Bonding for Chanel Oriental Rugs, Inc., TA U.S. Capital Auction.

Q And did you talk with Mr. Lane about whether he issued bonds for Mr. Mizani?

A Yes, I did.

Q What did he tell you?

MR. QUINN: Objection.

THE COURT: Overruled.

THE WITNESS: He said that he did.

BY MR. MILLER:

Q Now, are these the original documents that you got from Mr. Lane?

A Those are the originals.

Q Let me direct your attention to a couple of tabs I've put on here in this package. Let me turn to this tab back here, the top line of which says "Potomac Accounting Agency." What is that?

A It's a name.

Q Okay. Well, what's the document? What's the page?

A It's an income statement for Chanel Oriental Rug.

Q For what period?

A For the period ending December 31, 1989.

MR. QUINN: Excuse me, Mr. Miller. Can I see if that's one document that I made particular note of?

MR. MILLER: Yes.

MR. QUINN: That's not but I just wanted to see. Thank you.

BY MR. MILLER:

Q And what is on this?

A It lists the income by month and also an annual basis for Chanel Oriental Rug Gallery for the year ended '89.

Q Does it have an accounting of cost of sale?

A Yes, it does.

Q Let's go first to the top line which shows cash sales there for the year-to-date column. Is there a cash sale for the total sales for Chanel Oriental Rug during '89?

A Yes.

Q What is it?

MR. QUINN: Objection.

THE COURT: Overruled.

THE WITNESS: $1,563,338.50.

BY MR. MILLER:

Q And then is there a line for cost of sales for the entire year?

A Yes, there is.

Q What is it?

MR. QUINN: Objection.

THE COURT: Objection.

THE WITNESS: $547,168.48.

BY MR. MILLER:

Q And out to the right is there a column for percentages showing what percentage of the sales that cost of sales is?

A Yes, there is.

Q What is it?

A Thirty-five percent.

Q How does that reflect with the estimate that you made based on the samplings you made and that are reflected in Government's Exhibit 1?

A It's one percent higher.

Q And does this document show whether -- then there are additional expenses listed below the gross profit; is that correct?

A That is correct.

Q Is there a line for gross profit on here?

A Yes.

Q What is the gross profit for the year?

A $1,016,170.02.

Q That represents what percentage?

A Sixty-five percent.

Q And then there's a listing of various other deductions, expenses; is that correct?

A That's correct.

Q Is there a bottom line as to whether there was a profit or loss for this year for Chanel?

A Yes. There's a net income.

Q Of what?

A $105,332.60.

MR. MILLER: If I haven't already, Your Honor, I move for the admission of I-4.

MR. QUINN: May I see the exhibit before it's admitted?

MR. MILLER: Yes.

MR. QUINN: Thank you. You did show it to me, but I wanted to take a look at it.

BY MR. MILLER:

Q Let me show you one other page in this package which I tabbed, the same exhibit. What is this page that I have tabbed?

A This is a letter on Manhattan Auction letterhead.

Q What date is it?

A January 7, 1991.

Q Could you read it, please?

A "To Whom It May Concern: Please be advised that U.S. Capital Auction Co. is a sister company to Manhattan Co. and is affiliated in all its business affairs."

Q And who signed that?

A Ahmad Mizani.

Q Now, let me show you the two last exhibits from this. I show you I-5, I-9, and I-10. Let me give defense counsel a chance to browse through those.

THE COURT: Mr. McAuliffe and Mr. Quinn, why don't we let you look at that. I don't want to rush you at all. Why don't we go ahead and take a lunch break and we'll take this up after lunch. All right. Let's go ahead and take an hour. Be back at 2:15.

(Luncheon recess at 1:15 p.m.)

AFTERNOON SESSION (2:25 p.m.)

THE COURT: All right. I believe that we had some other documents that the witness was examining.

MR. MILLER: Yes.

THE COURT: Or about to examine.

MR. MILLER: Defense counsel was examining them and I think they have concluded with their examination and I can proceed, with the Court's permission.

THE COURT: All right.

JEFFREY WILLIAM ROSS, GOVERNMENT'S WITNESS, PREVIOUSLY SWORN REDIRECT EXAMINATION - RESUMED

BY MR. MILLER:

Q Agent Ross, let me show you two other documents. First of all, Government's Exhibit I-5, do you recognize that?

A Yes, I do.

Q What is it?

A The insurance policies, bonding records for -- the insured name is Mizani, A.

Q And what address is listed for Mr. Mizani or Mizani, A.?

A 9155 Brookville Road, Silver Spring, Maryland.

Q And how does that relate to the lease we saw before, L-1?

A That is the location of that store.

Q Okay. Now, I have tabbed a couple of pages here. First of all, the first tab, what is that?

A This is a letter on Avon-Dixon agency letterhead.

Q I should ask you where did you get this document, L-5?

A They came from --

Q Or I-5 excuse me.

A -- William Lane of Avon-Dixon Insurance.

Q The first page I have tabbed, what is it now? What is this page?

A This is a letter on Avon-Dixon agency letterhead to Ahmid, A-H-M-I-D.

Q And who is it from?

A William Lane.

Q And just if you could read the first line of the message.

MR. QUINN: Objection.

THE COURT: Basis?

MR. QUINN: It's hearsay without any other indicia of reliability, Your Honor, the same as the rest of these documents.

THE COURT: All right. I'm going to overrule that.

BY MR. MILLER:

Q Go ahead and read that.

A "Ahmid, I have bonding market but they need application and 20 financial statement."

Q Is there a financial statement for Mr. Mizani that I have tabbed in here as well?

A Yes, there is.

Q And what does the top of that balance sheet say?
A Mr. Ahmad, A-H-M-A-D, Mizani's balance sheet as of June 30, 1992.
Q And is there a line there for inventory? Well, first of all, there's a listing of assets, correct?
A That is correct.
Q And is there a line specifically for inventory?
A Yes, there is.
Q And is there a total for that?
A Yes, $1,256,117.49.
Q Are there various other assets listed?
A Yes, there are.
Q What is the total asset valuation on this balance sheet as of June 30, 1992?
A $2,078,247.75.
Q And are some liabilities listed?
A Yes. There are three lines with liabilities.
Q And is there a total on line 37?
A $148,938.
Q So if you subtract the liabilities from the assets, just ballpark?
A The net worth would be in excess of $1.9 million.
Q Is anybody else listed on the balance sheet or just Mr. Mizani?
A Just Mr. Mizani.
Q Let me show you Government's Exhibit I-10. Do you recognize that?
A Yes. This is an insurance policy in the name of Joanne Slater Mizani for automobiles.
Q And where did you get this policy?
A From William Lane at Avon-Dixon.

MR. MILLER: By the way, Your Honor, I don't think I have officially moved for the introduction of I-5.

THE COURT: It will be received over the objection of defense.

MR. QUINN: Thank you, Your Honor.

BY MR. MILLER:

Q And I have tabbed a couple of pages here in I-10. Let me turn to the first place I tabbed. Is there a listing there -- this page is called "Policy Change Request"; is that correct?

A That is correct.

Q Is there a listing of information as to who the insureds are?

A Yes.

Q Who are they?

A Joanne M. Slater-M.I.

Q And is there a second insured?

A Ahmad Mizani.

Q And their dates of birth and social securities numbers or driver's license numbers are listed; is that correct?

A That is correct.

Q Is there an occupation column listed for Mr. and Mrs. Mizani?

A Yes, there is.

Q What is the occupation listed for Mrs. Mizani?

A Homemaker.

Q And what is the occupation listed for Mr. Mizani?

A Business owner.

Q And this is typed up; is that correct?

A That is correct.

Q Let me have you turn to the other page I tabbed in here in the same package, I-10. What's that?

A That is the application for personal automobile insurance.

Q And is that typed up or handwritten?

A That is handwritten.

Q What is the date that was written on there?

A July 18, '91.

Q And is there, again, a listing, a block down towards the bottom of that page for listing the drivers?

A Yes, first name only.

Q And who is listed?

A Joanne and Ahmid.
Q And what is the occupation listed for Joanne?
A Homemaker.
Q And for Ahmid?
A Business owner.
Q And if you turn to the next page, did Joanne Slater Mizani sign this application?
A There is, yes, a signature there with her name.
MR. MILLER: Move for the admission of I-10, Your Honor.
THE COURT: All right. Over objection it will be received.
BY MR. MILLER:
Q Finally, let me show you Government's Exhibit 13. Do you recognize that?
A Yes, I do.
Q What is it?
A This is a letter that was obtained from mortgage company records.
Q And what is the date on the letter?
A The date is 8-29-94.
Q And could you -- well, I move for the admission of 13, Your Honor, I guess before he reads it.
MR. QUINN: Over objection, yes.
THE COURT: All right, over objection it will be received.
BY MR. MILLER:
Q Could you please read the content of the letter?
A It says, "To Whom It May Concern: This is to certify that Mrs. Joanne Slater Mizani, social security number 212-68-3311, does not have any ownership interest in Chanel Oriental Rug Gallery. Please call me if you have any other questions regarding this matter. Sincerely yours, Farok A. Baik, public accountant."
Q Is that the same gentleman who did the 1992 tax return for Mr. Mizani?

A That is correct.

MR. MILLER: Court's indulgence for one minute, please. I would move for the admission of -- I already did. I'm sorry -- Government's Exhibit 13. I have nothing further, Your Honor. Thank you.

THE COURT: All right. Any cross?

MR. QUINN: No cross, Your Honor.

THE COURT: All right. You may stand down, sir. All right. Additional -- is that it?

MR. MILLER: Nothing else, Your Honor.

THE COURT: Defense have anything?

MR. QUINN: No, Your Honor. We will proceed as I indicated earlier.

THE COURT: All right. Well, then, we will just listen to argument now and see where we are. The clear issue, of course, is the tax loss. That's really what is in issue here and that will determine where we are with the offense level. What is his criminal history category? Is it III?

MR. QUINN: Yes, it is.

THE COURT: There's no dispute as to that?

MR. QUINN: No, sir, there is no dispute.

THE COURT: All right. We will hear either side. Government has the burden. What do you think, government?

MR. MILLER: Your Honor, thank you. I'm not going to belabor how the calculations were done by Special Agent Ross. You've heard a greet deal of testimony regarding that. The one thing I want to point out, Your Honor, is there is one piece of paper that has been provided to the Court that was obviously

prepared for the defendant at a time when he was not facing this charge, and that is the balance sheet for 1989. Now, I recognize that the charging years are '90 through '93. However, I would point out that defense counsel in their submissions to the Court have used receipts going back into the seventies, I believe, and I don't think there's any testimony or any reason to believe that there were any wild swings in costs or profit levels or all that sort of thing and -- I don't recall the exhibit number. I think it's I-4. If I could retrieve that momentarily, Your Honor. Government's Exhibit I-4, which Special Agent Ross testified was some bonding agreements for Manhattan Auction that he received from Mr. Lane, that Mr. Lane did them for Mr. Mizani, has the Chanel oriental income statement for the period ending '89, and the cost of sales, total cost of sales is 35 percent, one percentage point off Special Agent Ross's estimation. More than that, it shows that the defendant is not taking a loss but, rather, has a profit of over a hundred thousand dollars for this one operation in this year. I think, Your Honor, given the fact that the defendant's own records were basically in disarray, there was no formal accounting, it is impossible to make a rug-for-rug attribution of costs, I think Special Agent Ross's calculations should be credited in and

of themselves. When you compare that to the defendant's own income statement submitted to his own insurance company for his own bonding agreements showing that the cost of sales is within one percent of Special Agent Ross's calculations -- and I might add that one percent difference even if we go up to 35 percent makes no difference for guideline calculation purposes, it is clear that the 34 to 35 percent calculation is an appropriate one -- is a reasonable one, and is based on the evidence before the Court. Now, I'm not going to address, frankly, most of the other issues that are raised in defense's papers because they have presented no evidence to support any of that. In fact, they have presented no evidence to support their own calculations. My understanding from reading the papers is that those were done by Mr. McAuliffe. We haven't heard from their accountant. I presume that the argument is going to be as Mr. Quinn stated at the beginning of today, that is, that the Court should simply reject our numbers and I guess not use any numbers. So, I'm not going to go into a great bit of detail regarding all of that at this point. I would want to point out to the Court that basically what the evidence has shown is that the defendant was involved in using nominee owners for a variety of businesses, and not just his wife and

not just people he knew but people he had no connection with. Somehow we got ahold of these Health and Human Services applications that are Government's Exhibit SW-40 and 5 obviously through the various other exhibits that the government has provided today was using these individuals, who he clearly has no connection with whatsoever, as nominee owners on various applications he was sending in for, trade applications and all sorts of things. He has an American Express card in Robert Katz's name. He has a check cashing card on his person in Harold Gordon's name. Basically the defendant is setting up all these businesses, running all of these businesses and putting them in other people's names to try to avoid taxation. And if all that evidence didn't prove that, Your Honor, then defendant's own words do from Government's Exhibits, I believe, 27 and 28, which are the excerpts of the defendant's deposition testimony and trial testimony from '92 and '94, I think. He stated in, I believe, Government's Exhibit 27 that, in essence -- and the Court has that transcript in front of him -- one person can have a variety of businesses. He does one business with this person., he does another business name with that person and, as he says there, "I decide who the owner is." Well, that's

exactly right. He decides on paper who he's going to list as the owner at which time it suits him to list somebody as the owner. When he's dealing with the insurance agent, Mr. Lane, because he's trying to get insurance for his business, he tells Mr. Lane it's his business, he owns the business, he owns the rugs. When he's in Court or when he's facing tax charges, he's apparently claiming that he's not the owner of some of these businesses. I'm really not sure now because he said one thing in his plea agreement and apparently we're going another way in the submission from the defense from a week and a half ago. Additionally, then, in SW-28, he explicitly states why he was putting these things in other names. He had a problem with the IRS in the late eighties and as he's asked -- his attorney told him he had to pay the taxes anyway even though he felt he might have been losing money, and when he's asked is that why you don't have any businesses in your name now, he says, "Well, I guess you could put it that way, yes." I don't really know how more direct a statement we could have, backed up by all of the physical evidence, the documentation that we have to show what he was doing and why he was doing it. The claim in the defense papers that he had nothing to do with Chanel Oriental Rug Gallery in Easton and that was his

wife's business and I guess Mr. Hahn's business, again, Your Honor, first of all, with all due respect, it flies in the face of the plea agreement. I understand they're now trying to parse out one Chanel Oriental Rug Gallery from the other. The plea agreement specifically states that it is stipulated that the defendant owned and operated a variety of businesses, including -- and I don't have it in front of me, but it includes Action Auction, U.S. Capital Auction, Chanel Oriental Rug Gallery. Those are three of the businesses that are listed there, and I think it's -- well, the evidence shows that Mr. Hahn and Ms. Slater Mizani's name on the partnership tax return which the defense has submitted but we've had no testimony about is basically a part of this entire sham that the defendant was running through these various years to try and keep his name off of any records or any papers while he was reaping the benefits of all these businesses. Your Honor, for that reason at this point the government would request that the Court accept the tax loss figure of approximately $850,000, representing 34 or even a little higher, 35 percent of the cost of goods sold being subtracted from the total gross receipts that were unreported.

THE COURT: All right. Yes, Mr. Quinn.

MR. QUINN: Your Honor, as it --

THE COURT: Are those all the exhibits, madam clerk? Do you have everything? I'm going to have to at some point take a recess and go through these exhibits and see what we have here. All right, Mr. Quinn.

MR. QUINN: May it please the Court. Your Honor, what we, I believe, are seriously challenged by in this particular case is somewhat of a repetitive problem associated with these sentencing guidelines and the effort to streamline justice and the effort to make ready and somewhat easy an effort by the Congress to determine a sentence in a particular case. It's a serious problem. I suspect that there are many, many cases in which the government benefits from this sort of a streamlined approach because under those guidelines you don't get into questions such as deductions and the like. Well, it works very well for the government in many, many instances, but I suggest, Your Honor, that it causes a fatal problem in the government's position in this case. The sentencing guidelines, as we understand it, basically say that you can take this streamlined approach if in fact you can use this 2T4.1 set of guidelines, the tax table. All you have to do is take this gross income number and multiply it by whatever is there on that set of categories. I think there's 21 categories. However, if you can't, then the level must be 6, because 6 is the

otherwise, and that's our position. These are terms of art. These are statutes. These are criminal statutes which are to be construed narrowly. These are -- this is an effort to make things abundantly clear by following a statutory formula. All ambiguities, I suggest, should be resolved in favor of the defendant. Now, Mr. Miller has said much about Mr. Mizani not being a very nice guy, about Mr. Mizani playing games with IRS and the like, and I understand why he says those things. But that doesn't in any way alter the procedure that in fact we must follow. Now, it may not be pleasant. It may not be something that gets us where we otherwise want to go, but it's the law, and the law basically says you take a look at the 1040 form, and the 1040 form makes reference to one of the various types of gross income calculations that exist here, and that is at line 12, business income or loss. And, clearly, Your Honor, that's the way the government has chosen to proceed. I heard some testimony about, well, he may have had some rental income and the like. But the government has chosen to proceed in that particular way. In order to do that, you have to follow the requirements of Schedule C, line 4, which says before we even make an entry here, we have got to -- we have got to go through the requirements that are associated on page 2 of

Schedule C, which would result in a line 39 entry. The way these sentencing guidelines work is if you can do it, go ahead and do it. This isn't "If it's easy to take five or six invoices and to perform some calculations in that way, follow this procedure," "If they have sound accounting records, then do it." This is "You must do it." Now, Agent Ross, very candid young man, he said that he didn't do anything that is required to be done in order to reach the gross income sum with the exception of taking a percentage that would be properly associated with one line entry, and in that respect only one aspect of the line entry, which is the purchases. He said, "I can tell you this. I can't tell you what the inventory was at the beginning of the year. I didn't do that analysis. I can't tell you about the items withdrawn for personal use. I didn't do that analysis. I can't tell you about the cost of labor. I didn't do that analysis. I didn't do it for materials and supplies. I didn't do it for other costs. I didn't do it for closing inventory. And I didn't do it for returns and allowances," although he tells us that, in fact, there were returns that went beyond the returns that Mr. Mizani may have made to the wholesalers. There were returns of goods that in fact were part of those sales receipts. Now, that's the way it is. That in fact is what has happened

in this case. There has not been an effort to properly determine the cost of goods sold and, thus, gross income. Now, the government's position is even more fatally flawed, because the government says here is a list of gross receipts, the starting point, if you will, and that list of gross receipts adds up to this $4.8 million number. Well, the testimony and the record in this case does not include any connection between Mr. Mizani and some of those entities that are on this list of computations. Now, I don't know whether some that were excluded add up to a hundred thousand, 300,000, a million or whatever, and neither do you. But that's not our burden. Now, only entities connected with Mr. Mizani are capable of being includible in that list or should be includible in that list, and if they're not and if there isn't a breakdown, you can't even get, I would suggest, to line one of this analysis. So, we don't have a proper starting point. We do have a set of rules and the set of rules, just like it can act harshly for defendants, in this case may act harshly for the government, and that set of rules basically was not followed in this case. There can be no question about that. They simply were not followed. Coming up with a percentage based upon a review of the documents in question, not something preceding it, which I'll get to, but coming up with a

percentage of the cost of purchases when that's only one of five or six or seven elements just doesn't cut it. So the government says, well, we couldn't do anything more because their records were in disarray. Well, the government had all the records. The government chose to organize the records for Pars but chose not to organize or analyze any of the other records, and I'm not so sure -- as a matter of fact, I would advocate to Your Honor that that is irrelevant. If the government can't do it, the government can't follow this very mechanical, strict administrative set of guidelines that the government says has to be followed. It's fascinating that the government chooses to rely upon this 1999 statement. They say, well, there's some evidence. Now, who did the statement? I don't know. What was his role in the whole thing? I don't know. Who provided this information? I don't know. Where was he to testify since this might be a real key point if they think it's so important? Not here. Is it in the investigative period of time? No. And what happened, Your Honor, to this method in disarray basis for accounting, these materials in disarray, this chaos that prevented this agent from doing an analysis to get those records suddenly organized in 1989 or 1990, year end 1989 statement, so that this kind of a

detailed statement can be performed? He didn't do it. What happened? Did all these 40 boxes of documents with records that go all the way back into the mid-eighties and I think they said some of them in seventies -- did all of a sudden those documents jump into folders and we have the statement in 1989? And then all of a sudden when the government several years later came about, they came in disarray again? I asked them, you know, is this a surprise? Yeah, we think so. We think so. Could that statement be based upon sort of bogus reporting like the government contends so many other statements are, that the numbers were basically made up? Is there a reliable basis for you to conclude that all of a sudden order was brought to chaos and computations were made by somebody other than him and that they're reliable and that that's a basis to do that? Any evidence about standard costs of goods sold in these kinds of cases from the various professional journals that exist? No. So, the result that we think you must reach in this case may not be a pleasant one because your view of this situation may be that it is not reflective of the type of punishment that should be available and meted out to Mr. Mizani, but that wouldn't be new to you. This is a case in which the government has not met its burden. I mean, that's why we're not producing

any witnesses. Maybe I made a terrible mistake. I don't know. But the government has not met its burden. It has not offered to you information computed the way the government says it must be computed. Since it doesn't, we suggest that this is a level 6 offense, because that's what the guidelines instruct you to do if you can't compute this. Now, I don't know whether you want me to reach other sentencing issues at this time. Would that be helpful?

THE COURT: What other issues are there after I make a determination on what the tax loss is?

MR. QUINN: Well, you'll have to make a decision about what range, where in the range you might want --

THE COURT: We'll do that once I have made my factual findings with reference to this outstanding issue.

MR. QUINN: Yes, sir.

THE COURT: And I've got to take some time. I've got to study what's been introduced. I haven't seen all of it. And it's going to take me, 20, 25 minutes to do that. But are there any other issues?

MR. QUINN: Well, only that whatever guideline range you follow, I would like to try to persuade you to end up in the lower end.

THE COURT: I'll give you a chance to respond.

MR. QUINN: At that time?

THE COURT: Sure. Government have anything else?

MR. MILLER: Yes, Your Honor, two things regarding what Mr. -- I'm sorry. Were you finished?

MR. QUINN: I don't know that I was, but --

THE COURT: If you're not finished, then continue.

MR. QUINN: I may be. I may be. Yes, there's one other thing. This analysis based upon the Pars documents, those are the documents factoring in the square foot cost as it relates to rugs delivered to Baltimore. These are the only documents that seek to establish at least the cost of purchase during the taxable period of time. The use of those documents not only is an incomplete application of what is required, but it also defies good sense. And I think Agent Ross in his testimony on cross-examination is consistent with the notion that that defies good sense for these reasons. We are talking about a New Delhi company delivering rugs to the port of Baltimore. That's all there is, a foreign importer delivering rugs to the port of Baltimore. It defies good sense to suggest that all of the normal incidents that Agent Ross was asked about, broker's fees, custom's fees, getting it from the port to wherever your business is, none of those costs were calculated. So, not only did they fail to follow completely their own guidelines and requirements -- they aren't guidelines; they're requirements -- but they also offered a percentage

that was not consistent with good sense. And I believe that is all.

THE COURT: All right.

MR. MILLER: Your Honor, two things regarding what Mr. Quinn has argued and then one other point I want to bring up I guess at this time. As far as how we link the defendant into all the receipts that -- all the business names, I believe Agent Ross testified the receipts that he added up to come to the gross receipts number of $4.8 million or so, they all came out of the defendant's house. Now, have I put on a piece of paper for each one of those company names linking him to it? No, I haven't. But we've seen already through the various pieces of evidence before Your Honor and through the stipulation in the plea agreement I might add that the defendant used a variety of business names. All of these receipts came out of the defendant's possession at his own home and I don't really think there needs to be anything else to link him to all of these. As far as the '89 statement, I don't really know what to say about that. Did the defendant make up the numbers for that too? Well, maybe. Obviously we don't know who wrote it. The point is it's contained in a bonding insurance policy file that is provided to the -- clearly provided to Mr. Lane by the defendant and that's the numbers he's relying on. Now, how is that

corroborated? It's corroborated because, lo and behold, when Agent Ross tries to do an analysis, he comes within a percent of the same cost of goods sold without even using that balance sheet as a basis. So, essentially they corroborate each other. Who made it? Who wrote it up? Well, if the other testimony is any indication, undoubtedly the number, just like the numbers for the tax return, came from the defendant. But the bottom line is it's in the defendant's insurance file with the defendant's insurance agent. The other point I'd like to bring up, Your Honor, is regarding the defendant's acceptance of responsibility. I recognize the defendant has not put on any witnesses today and has not taken the stand. I do want to point the Court to two items in the presentence report regarding the defendant's acceptance of responsibility. The under paragraph 23, it's reported that the defendant told the probation officer, Ms. Reed, "I was stupid. I don't know what to say. I trusted the accountant. I said okay. The numbers were not right." On paragraph 91 it's stated that "Mr. Mizani indicated he was employed by Action Auction from '91 through '97 as an auctioneer salesman and U.S. Capital Auction from '87 to '93 in Silver Spring and Potomac, Maryland. These businesses were owned by his common-law wife

Joanne Slater Mizani." Your Honor, the plea agreement provides that if the defendant fails to accept full responsibility with the probation officer, that is a breach of the plea agreement. The government views this as a breach of the plea agreement. The defendant is basically blaming his accountant for the false filings in this case and is trying to back away from two of the primary companies that in his own plea agreement he stipulates he owned and operated. Action Auction and U.S. Capital Auction are two of the companies that are listed in the stipulation in the plea agreement which the defendant says he owned and operated. Now to the probation officer not only is he saying I gave the numbers to the accountant and they weren't right, but he's also telling her that he didn't even -- that it was his common-law wife, as he refers to her now, who owned those two businesses. Your Honor, for those reasons, the government would request that the Court find that the defendant has breached his plea agreement and that the government be released from its obligations under the plea agreement.

THE COURT: All right. Mr. Quinn, do you want to respond to that?

MR. QUINN: Yes, Your Honor.

THE COURT: I'm not sure, Mr. Miller, that I agree with that. First of all, if you look at paragraph 23, the numbers are wrong,

there's an inference there that he underreported. You can look at it that way. And then in paragraph 91 technically his wife did own them if she was listed as the owner. But that does not necessarily mean he is renouncing his offer to plead guilty, suggesting that he owned it along with her and operated it. So, I don't take that really as going back on his responsibility. I don't think so. Do you have anything more?

MR. QUINN: No.

THE COURT: All right. All right. Let me look at these documents and then make some conclusions and determinations. Let me take them in the back and see what I can do with those.

(Proceedings recessed from 3 o'clock to 3:50 p.m.)

THE COURT: All right. Let's go back on the record in the case of United States v. Ahmad Mizani. As the parties know, I took a recess to go back in chambers to review the exhibits in this case. Let me, first of all, say that these tax cases always pose issues with reference to the amount of the loss. This is not the first time the Court has seen these cases and I suspect it won't be the last time. But often when you are dealing with these type of cases involving false tax returns, you will not be able clearly to see the precise mathematical amount of the tax loss. That's why you have a number of cases throughout the country that assist the Court in determining how to assess the

tax loss. I must be mindful that this is a false tax case. This is a false tax return, which simply means, stripped to the bare bones, that the defendant pled guilty to reporting falsely under oath certain information that he knew was false. There's no dispute to that. He pled guilty to that and he did in fact knowingly file this false tax return, knowing that it underreported what he should have reported. So I can't divorce myself of that. We also know that there were a lot of monies that came through a number of bank accounts which I looked at. Looking at the Government's Exhibit No. 2, which lists from 1990 to 1993 several different accounts under various names, some of which are in the name of Joanne Slater Mizani, others in various trade names and other kinds of entities that causes the Court to have to determine the nexus or affiliation that Mr. Mizani has with these entities. But suffice it to say, it seems as though during this period of time, 1990 through 1993, there was over $5 million flowing in and out of these accounts. So there was a good amount of monies that were passing through. We also know that Agent Ross testified that there were three properties that were of substantial value. One was near a million dollars in Potomac, another one worth several hundred thousand, and I didn't recall the value of the third one. But we

know that there were hundreds of thousands of dollars that had to be paid during this period of time for the mortgages not only for the properties but also the various accounts associated with the automobiles. And so, these were properties that were in the name of Mrs. Mizani but clearly Mr. Mizani resided there and the Court is compelled to determine his nexus or his affiliation with those properties. And so, the two real issues that I have to resolve, as I see it, is, one, what is the connection that Mr. Mizani has with these entities that were created. In some of the papers they were referred to as partnerships. We heard testimony today about "trading as" and we saw various other names that no one quite knows the precise structure of these entities. But my job is to determine the affiliation or whether the amount of monies that were generated by these companies or the sales made by these companies or these entities are attributable to Mr. Mizani. The second question, of course, is the amount of the tax loss, which we would have to determine based on the evidence presented here today. Again, I examined all of the records here in the last 20, 25 minutes. We looked at deposition testimony of Mr. Mizani where he indicated and admitted under oath that he caused a number of these entities to be given a designated name and he was

responsible for it and he, again, acknowledged, as I read his testimony and digested his testimony, that he was part and parcel of these entities, although styled in another name. We also have, in addition to the bank deposit summaries, we have a journal ledger book that Agent Ross reviewed and attempted to make some sense of. And I will say here at this juncture that I found Agent Ross to be credible and I have no reason to question his testimony, particularly when he testified that he talked with a number of people during the course of his investigation and some of the people were rug dealers, people who allegedly were owed money by Mr. Mizani and said that they dealt with him and he owed them money. And we also heard the discussion by Agent Ross with the accountant who testified essentially that as he prepared these various returns, he didn't have any documents but Mr. Mizani basically gave him the information to put into the returns. I have no reason to question that testimony at all. We also have one of the documents that I'm looking at, and this is Government's Exhibit 13, which suggests that "This is to certify that Ms. Joanne Slater Mizani, social security number 212-68-3311, does not have any ownership interest in Chanel Oriental Rug Galley," which is dated 8-29-94. Of course, that's contrary to some of

the suggestions in the pleadings that I went through before today's hearing, which suggested that she was the owner of that and there were various other partners associated with that. I have also reviewed the Exhibit 16 of the government which indicated what was found in a wallet of Mr. Mizani during the time of the search warrant and a list of other items contained at the premises. And I might add here that the defense objected to a number of records and documents and other things that were seized from the house during the search warrant as not relevant and other objections, but I find that these things are relevant and they do assist the Court in attempting to determine whether Mr. Mizani has a nexus with these businesses and these accounts that were designated in certain names. I have already indicated I went through the deposition testimony set forth in Government's Exhibits 27 and 28. I looked at Government's Exhibit -- I don't have a list on this one, but this is the commercial lease and as I looked at the commercial lease, I see where it was signed by Mr. Mizani and his son and it does indicate that they own as a partnership the business trading as Chanel Oriental Rug Gallery Company. We also have an application for employment I.D. number, again, signed by Mr. Mizani connecting him with Action Auction.

Of course, we have a letterhead on U.S. Capital Auction, again, signed by the owner purporting to be Mr. Mizani. Another file I looked at which consists of a number of grant applications of persons who apparently are unknown and I don't know the reasons for this, but for whatever reason it was in the house. It may or may not create some inferences that Mr. Mizani had a connection with those requests, but that's not a big part of my determination. There's also a credit card from a Robert Katz which, again, was found on the person of Mr. Mizani, designated as Government's Exhibit SW-44. And there's a number of other documents, applications for credit and other similar documents, bond information, all of which I reviewed and suggest in my view a connection with these entities by Mr. Mizani. We didn't hear any testimony from anyone as to whether the wife owned these things separately or whether the son owned them exclusively or what have you. And the only evidence presented to me simply is that for convenience purposes, or because Mr. Mizani had a tax problem, or perhaps to avoid detection or what have you, he simply employed his wife, his son to be and to have the title of these entities, again, for a number of reasons. There's no doubt in my mind, and I so find,

that these individuals were nominees. You can call them ploys, you can call them shams, whatever you want to call them, but what has been presented before me this afternoon is that Mr. Mizani controlled them, operated and controlled them and, in fact, he pled guilty to having operated and owned a number of these entities. And so, insofar as the first issue that I have to resolve today, it's an easy one for me and it's uncontradicted as far as I'm concerned that these entities in fact were owned, operated, controlled by Mr. Mizani. I think he had an interest in it. I think the nexus is there. And to the extent that there is a loss, he would have to be responsible for this and they would have to be attributable to him. So, that's not a difficult issue for me. And as I attempted to articulate a few minutes ago, I think Mr. Mizani employed and designated his wife and his family as alteregos so that he can continue to operate and deal in the rug business and to maintain what appears to be a reasonably affluent life. That's what is before me. I think that's what's clear. That is what has leaped out at me at this time and that is my finding, that there is a nexus by Mr. Mizani to all of these entities. There's no other way beyond that. He's admitted it, as I said, also in his plea arrangement and there's just no evidence to the contrary. So that's my finding on that

issue. Now, the second issue, of course, is what is the tax loss here. We certainly do not have by a mathematical certainty the precise number that we can use as a loss. A tax loss is defined in the guidelines and the application notes, Note 1. "The tax loss, of course, does not include interest or penalties. Although the definition of tax loss corresponds to what is commonly called the criminal figures, its amount is to be determined by the same rules applicable in determining any other sentencing factor. In some instances such as when the indirect methods of proof are used, the amount of the tax loss may be uncertain. The guidelines contemplate that the Court will simply make a reasonable estimate based on the available facts. In these situations, the presumptions set forth are to be used unless the government or defense provides sufficient information for a more accurate assessment of the tax loss." Well, as I said before, in these type of cases you normally do not have clear records right before you to make a precise determination of what the loss is and my reading of the appellate cases suggests that the Court not sit as one that second-guesses what the defendant would be entitled to by way of deductions or what he's not, but we are to make a reasonable or at least allow a reasonable estimation based on available facts.

Well, what do we have in this case? We have four tax years before the Court, '90, '91, '92, and '93. They came in on a search warrant and they saw a number of different records, documents, journals, purchase memorabilia, and other kinds of documents. But clearly there was no way to determine the absolute certain amount of the cost associated with the acquisition of the rugs. And so, the Court heard testimony from Agent Ross with reference to what he did, and essentially what he tried to do was looking at all the documents and the journals and ledgers and he looked at the total amount of purchases, which he totaled up as $4,824,563.57. While the defense certainly probably objects to that, there was not a lot of emphasis placed on the amount of purchases and sales. The real issue that I thought the defense stressed was the 34 percent cost of sales, which was the estimate put together by Agent Ross. Interestingly enough, we had a document that we examined as an exhibit earlier in 1989 where the defendant himself employed the figure of 35 percent as the cost of sales of rugs in a particular transaction for a particular year. And so we are, as the government has argued, certainly in the ballpark of the defendant's own figure that he used. But more importantly, the issue here is whether this is a reasonable estimation of what

the cost of acquisition came to. Mr. Quinn, of course, argues that under the appropriate schedule that there were certain items that the government did not employ. For example, the materials and labor and inventory start-off lists and other kinds of items set forth in that schedule. But, Mr. Quinn, I don't believe that you have to adhere strictly to every column and very item in that particular schedule. Again, as I have read the guidelines here, you have to look at what facts we have, what is available, and fortunately or unfortunately, however you look at it, depending on which side you're in, there were no records kept that the government knows of with reference to every item of cost associated with the movement of the rugs. Had they, of course, been kept and protected and well laid out, we perhaps wouldn't be here, but we have a situation where the defendant is charged with underreporting and making out a false statement. So he didn't keep these records and they're not available and the government did the best they could. That is, reasonably estimate, based on what they could piecemeal together, the number of items of sale and take what I find to be a reasonable figure of 34 percent as the acquisition cost. I had no other figures before me to even determine whether that should have been a higher figure or a less figure. I

don't know. There was nothing presented. I simply took what was available and I think a reasonable determination. I think the testimony was fair. It was reasonable. And I think it made sense and it was based on a fair assessment of what's involved in that particular business, based on the records that were seized and the notes associated with that. And so, I find that the methodology employed by the government here is fair. I think it's reasonable. I think it makes a lot of sense. And I think it's based on the available information that I saw. So, as I conclude, I simply do find that the grand total of the purchases and sales during the four tax years came to $4,824,563.57, less a reasonable cost of the sales, which would be 34 percent of the receipts, which would be $1,640,351.61. That leaves the total gross income of $3,184,211.96. And, of course, we then would subtract from that what he did report during this period of time, $142,100, for an adjusted unreported gross income of $3,042,111.96. The tax rate, of course, is 28 percent as given to us by the guidelines, which leaves an additional tax that he owes as well as what the tax loss is of $851,791.35. I find this to be reasonable considering all of the facts and circumstances of this case, and to suggest that he made $142,100 in four years just is not a reasonable amount

of money considering what we have here, looking at the assets that he controlled, that he's admitted in various documents, in various applications, looking at Agent Ross's testimony with reference to the assets that he owned, the houses, and the Court can look at all of that as circumstantial to see whether there is a reasonable amount. I find that it is and I find that the government has met its burden of the tax loss and, therefore, the adjusted offense level, I believe, is now a 17. Is that the government's position?

MR. MILLER: Yes, Your Honor. I believe it was 17 and then minus 2 for the acceptance of responsibility.

THE COURT: Yes, 17 minus 2. So, Mr. Quinn and Mr. McAuliffe, that's my factual findings. I do believe that there was a nexus or connection with Mr. Mizani to those entities and then, secondly, I do believe that based on what I heard from officer or Agent Jeffrey Ross that his methodology for reaching the value of the loss is a reasonable one based on facts that he had before him and there's nothing that I can see that suggests that it is anything but reasonable and fair and it makes good sense, good common sense to me, and I think the determinations here again are appropriate under these facts. Mr. Quinn, I'll give you now an opportunity to tell us what you'd like

to say as to what we ought to do with Mr. Mizani.

MR. QUINN: Very well, Your Honor. Thank you. Your Honor, I'd like the Court to show such leniency as the Court believes is available in this particular circumstance. Mr. Mizani is 62 years of age. He has four minor children. He has a relationship with those children. The ongoing nature of that relationship has been confirmed by pretrial services. The oldest child is age 14. The youngest child is only age eight. And it's also been confirmed that, in fact, Mr. Mizani was providing ongoing support for these children on a weekly basis in addition to paying other special expenses of these children. Mr. Mizani was subjected to urinalysis control during the course of his pretrial services and, in fact, all the urinalysis was in fact negative.

THE COURT: What does he do now?

MR. QUINN: He is working as a rug auctioneer. Mr. Mizani does possess a valid green card. A point of earlier concern with regard to pretrial services was the existence or nonexistence of a passport. It has been, as I understand it, confirmed that in fact he does not possess a passport. I would request that the Court recommend incarceration at a point closest to his home so that some measure of visits can be enjoyed by the children. I believe that that would be the

Cumberland facility, as I understand the availability. In addition, I would ask that Mr. Mizani be allowed to surrender himself at an appropriate time determined by the department of parole and probation.

THE COURT: What is the range, 24 months?

MR. QUINN: Twenty-four to 30 months, Your Honor.

THE COURT: All right. Anything else?

MR. QUINN: No, Your Honor, except it would be at an appropriate time our intention to note an appeal with regard to this burden of proof issue that we have tried to argue, apparently unsuccessfully with the Court today, and I would ask that the Court give consideration to the establishment of appeal bond.

THE COURT: All right. Let's see what the government has to say.

MR. MILLER: As to the appeal, Your Honor, the defendant has waived all appeals except the definition of tax loss. The issue as I understood it at the time the plea agreement was entered into was whether or not cost of goods sold should be subtracted from the gross receipts or not.

THE COURT: The cost of what?

MR. MILLER: Cost of goods sold, the 34 percent.

THE COURT: The 34 percent?

MR. MILLER: Now, the government agreed that it should be subtracted as the defense had been suggesting to me prior to the signing of the plea agreement. The Court has done that. As far as an

appeal on the burden of proof, there was no such appeal right reserved. The only right reserved explicitly in the plea agreement was definition of the cost of goods sold and, as I say, the issue there was whether or not cost of goods sold should be subtracted or whether you just take the gross receipts and that's it. Both the government and the Court have taken the defendant's position on that. The Court has simply found the number different than what the defense has argued.

THE COURT: You don't believe there's anything to appeal?

MR. MILLER: Absolutely not, Your Honor.

THE COURT: All right.

MR. MILLER: Your Honor, as far as the disposition in this case, it is a range of 24 to 30 minutes. At this time the government would recommend and request that the Court sentence the defendant to the high end of the range at 30 months. Let me say a couple of things about what Mr. Quinn has brought up. The government recognizes, as is reported in, I believe, paragraph 81 of the presentence report, that the defendant has been providing financial support to his children. It is important to emphasize that they no longer live with him. They are in the custody of their maternal grandparents. That's Ms. Slater Mizani's parents. That's where they've been living. That's where they continue to live. So he

certainly does provide financial support to them. We have no argument with that. But this is not a matter of a case where the only parent is moving out of the children's home. They have moved out of his home prior to now.

THE COURT: Where do they live?

MR. MILLER: They live with Mrs. Joanne Slater Mizani's folks.

THE COURT: And where is that?

MR. MILLER: It's in Maryland, Your Honor, Silver Spring.

THE COURT: All right.

MR. MILLER: 1420 Northland Drive, Silver Spring. We, of course, have no objection to the Court recommending that Mr. Mizani be housed in a facility near Maryland. We have no objection to that at all. It's interesting that the Court asked what Mr. Mizani does now and I would point out to the Court that under the employment record in paragraph 90 of the presentence report, Mr. Mizani states that he's presently employed with Katz, K-A-T-Z, Auctioning, and I presume that's the rug auctioning company that Mr. Quinn is referring to. I have no evidence of this, Your Honor, but my guess would be if you looked that up, you'd find that Robert Katz, the same Robert Katz in SW-40 on the Health and Human Services form, is listed as the owner of Katz Auctioning and not the defendant. As a result of all that, Your Honor, I'm

kind of -- I'll be honest with the Court. I'm sort of at a loss as to which defendant I'm recommending a sentence on, the defendant who entered into the plea agreement, the defendant who gave the responses to the probation officer that appear in the presentence report, the defendant who provided information to his attorneys to be submitted to the Court regarding who owned what and who ran what and whether he had an inventory and all that sort of thing. I think I've been in front of this Court many times and I usually try, I think, to bend over backwards, especially in a plea agreement situation. From the government's point of view, Your Honor -- we understand the Court's ruling. The defendant should get the two points off for acceptance of responsibility, but looking at all of this in total, especially what he's telling the probation officer, we do not view this as a situation where the defendant merits a low end or even a middle end recommendation. We would recommend that the Court sentence the defendant to a term of 30 months.

THE COURT: All right. And your position on appeal bond is -- you oppose that?

MR. MILLER: We would oppose that, Your Honor, and just to lay everything out before the Court, we do have some concern, now that obviously the defendant is going to be sentenced to a term of imprisonment, regarding flight here.

The defendant is not a citizen of this country. He does have a valid green card, but he is not a citizen of the United States. His children do not live with him any more. I don't know that he still has any real property here. I think the place he's living in now is rented, but I'm not sure about that, Your Honor. From the evidence that we have presented today, it's clear that the defendant has certainly in the past and apparently through Katz Auctioning still uses false names, carries around I.D.'s in other people's names and that sort of thing. We did not seize nor do we know where his passport is. For all of those reasons, although in the normal course of events I wouldn't ask for having a defendant stepped back in this situation, but because we're now at the point where the defendant knows he is going to jail and because of all those other reasons, I would ask the Court to have the defendant stepped back at this time after the Court has imposed sentence.

THE COURT: Mr. Quinn.

MR. QUINN: Yes, Your Honor. Mr. Mizani has known he's going to jail for some period of time.

THE COURT: He's known what?

MR. QUINN: He's going to jail for some period of time since this case began because I advised him of that fact, whether it was in the low end of the guidelines range that we argued for today or

elsewise. Mr. Mizani has more than a financial relationship with his children. He is in fact very close to them. He has supported them throughout this matter. The truth be known, Mr. Mizani is the one who made arrangements for them to be taken care of by the maternal grandparents and is still quite active in their day-to-day care, not only financially but also in a nurturing kind of way. He is not leaving these children. If in fact there is an issue of flight, that issue of flight would have shown itself much long ago. I would represent I've told Mr. Mizani from day one he's going to jail. It's just a question of how long.

THE COURT: Does he have any property here? What is his situation with Internal Revenue and his back taxes?

MR. QUINN: We have received no communication from the Internal Revenue Service whatsoever. With regard to the Court's question about the issue of property, he does not have real property here. What he does have, however, is much more compelling than that, and that's these children.

THE COURT: Where is his passport?

MR. QUINN: He does not have a passport, Your Honor. That was an issue that was discussed in consideration of pretrial services.

THE COURT: How much time are you looking for?

MR. QUINN: I'm sorry. I was just told that he hasn't left the country since 1971.

THE COURT: How much time are you asking for him to report?

MR. QUINN: Thirty days, Your Honor.

THE COURT: Well, I don't know -- Mr. Miller, I don't see any reason to step him back now. Unless you have something that suggests that he's going to leave his children or you have evidence that he has a passport, and we don't have that, I'm not sure there's any reason why I shouldn't give him 30 days to get his affairs in order and start his sentence. Two and a half years even, 30 months, is not a whole lot and if he wants to flee, I have to look at that.

MR. MILLER: I have no additional information for the Court.

THE COURT: All right. Okay. Well, does Mr. Mizani wish to address the Court, Mr. Quinn?

MR. QUINN: No, Your Honor. I have discussed that issue with him and he does not.

THE COURT: All right. You may be seated. Thank you, sir. Well, Mr. Quinn, Mr. McAuliffe, I have made my findings. This is a case that is a little troubling. We have some information that appears to be contradictory in the presentence report, particularly as to who this Mr. Katz is and whether he's employed there. The probation agent has indicated that she can't get any information as to who that is, where he's getting $2,000 from. On the other issue that I have had with this is we're dealing with someone rather slippery in the sense that, again, his pattern

seems to be putting assets in other person's names, family members. One of the houses, as you recall, passed from the wife to family members and back to him. So we're dealing with someone who is a little slippery here and has utilized his family to do the kind of things that he wanted to do and allegedly maintain a hands-off approach to these assets. But I think you have argued the case for him. I do believe based on the loss that he should get 30 months. There's no question in my mind that you will get 30 months' custody with the Bureau of Prisons, and following his 30 months, put him on supervised release. As a condition he must pay all back taxes, penalties and interest, cooperate with the Internal Revenue in any audit conducted by Internal Revenue Services. It is further ordered as part of his supervised release that he file a yearly income tax return during his period of supervised release, provide the probation officer with copies of those taxes and any release that is appropriate, provide the probation officer with any financial information requested. What is his special assessment fee? Is it $50, Mr. Miller?

MR. MILLER: I believe it would be 50, Your Honor, because it predates '96.

THE COURT: All right, $50. Is there any indication of a drug and alcohol problem?

MR. MILLER: No, Your Honor.

THE COURT: What do you think about that, Ms. Reed?

MS. REED: Your Honor, the defendant had trouble in the past. All the urines were negative with pretrial during his supervision with them.

THE COURT: All right. I'll go ahead and exempt him from that. Of course, he ought know that he cannot possess a firearm or other dangerous weapon during this period of time. I don't believe there's a basis for a fine here. He's going to have to straighten his tax situation out and work with Internal Revenue to get that paid. I will do what Mr. Quinn has requested. I will let him have voluntary surrender. Thirty days from today, madam clerk, he is to turn himself in. And I'll recommend that he be placed in a facility as close to his family here in Maryland. To the extent that Mr. Mizani has anything to appeal, I note he has 10 days from today to file an appeal with the United States Court of Appeals for the Fourth Judicial Circuit, and based on the government's position as to the appeal, I find that there's no need, no basis for me to set an appeal bond. I won't do it. The Fourth Circuit may but I won't. He's been notified he has 10 days from today. Madam clerk, did I miss anything?

THE DEPUTY CLERK: No, sir.

THE COURT: All right.

MR. MILLER: At this time, Your Honor, the government would move to dismiss the remaining counts of the indictment.

THE COURT: All right. Yes, that will be granted. Here are the exhibits which I will return back to the parties, madam clerk.

(Proceedings adjourned at 4:30 p.m.)

CERTIFICATE OF REPORTER

This record is certified by the undersigned reporter to be the official transcript of proceedings in the above-entitled matter.

Gloria I. Williams
Official Court Reporter

1040 US INDIVIDUAL INCOME TAX RETURN 1990
For the year Jan-Dec 31, 1990 or other year from

Your Name: AHMAD MIZANI
Street, No.: 9155 BROOKVILLE RD.
City, ST, Zip: SILVER SPRING, MD 20910

Your Soc Sec.
577-70-1209

FILING STATUS
1. .....(X) Single

EXEMPT
6a. ..... (X) Yourself
6e Total number of exemptions claimed
Add nos. above >:..... 1

INCOME
7. Wages, salaries, tips, etc. (Form(s) W-2) 0
8b. Tax-exempt interest income 0
10. Taxable refunds of state and local income taxes 0
12. Business income or loss. (attach Schedule C)..-7,186
13. Capital gain or loss (attach Schedule D) 0
17a. Pension, annuitites total..... 0
17b. Taxable 0
19. Farm income or loss (attach Schedule F) 0
22. Other income (type and amt)..... 0
23. Add lines 7 through 22. Your total income.....-7,186

ADJUSTMENTS TO INCOME
24a. Your IRA deduction 0
24b. Spouse's IRA deduction..... 0
25. Deduction for self-employment tax..... 0
30. Add lines 24 through 29. Total adjustments..... 0

ADJUSTED GROSS INCOME

31. Line 23 - line 30. Adjusted gross income.
If less than $10, 340 see "Earned Inc. Credit" ...-7,186

TAX COMPUTATION

32. Amount from line 31
(adjusted gross income) ..... -7,186

33a. You 65 or older?__ Blind?__ Spouse 65?__ Blind?
Total number of boxes checked above 0

34. Larger of Standard vs Itemized
deductions 3, 250

35. Subtract line 34 from line 32 .....-10,436

36. Multiply $2050 by number of exemptions
on line 6e..... 2, 050

37. Taxable income. Line 35 minus 36
(not less than o)..... 0

38. Tax. From: X Table 0

39. Additional Taxes..... 0

40. Add lines 38 and 39. Enter the Total 0

46. Add lines 41 through 45 0

47. Subtract line 46 from line 40 (not less than 0)..... 0

48. Self-Employment tax 0

51. Soc sec tax on unreported tip income 0

52. Tax on IRA or retirement plan..... 0

53. Advance earned income credit payments 0

54. Lines 47 to 53 TOTAL TAX 0

55. Federal Tax Withheld. Any on a 1099?..... 0

59. Excess soc sec & RRTA tax withheld 0

60. Credit for Federal tax on fuels 0

61. Regulated Investment co cr 0

62. Lines 55 to 61. TOTAL PAYMENTS..... 0

63. If line 62 is larger than line 54, amt OVERPAID..... 0

64. Amount of line 63 to be REFUNDED TO YOU..... 0

65. Amt to apply to 1991 estimated tax 0

66. AMOUNT YOU OWE 0

67. Amount of penalty on Form 2210 0

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and

statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Signature:	/s/ Ahmad Mizani
Date:	5-18-1992
Your Occupation:	Self Employee
Preparer Signature:	/s/_____
Date:	4-14-92
Soc. Sec. No.	026-147479
E.I. No.	52-0910855

SCHEDULE C PROFIT OR LOSS FROM BUSINESS**
FALL RELEASE NOR FOR FILING
(Form 1040) OMB NO. 1545-0074

Name of proprietor: AHMAD MIZANI
Soc Sec No.: 577-70-1209

A. Principal bus/profession, and product/svc
TRAVELING RUG AUCTION
B. Principal Bus. Code
4317
C. Bus name, address:
AHMAD MIZANI RESIDENCE
D. Employer ID No. (Not SSN)
E. Method(d) used to value closing inventory.
(X) 4. N/A
F. Accounting method:
(X) 1. Cash
I. Did you "materially participate" in the operation in 1990 (Y/N)..... Y

PART I - INCOME

1. Gross receipts or sales 43,100
2. Returns and allowances .....
3. (Line 1 - Line 2)..... 43, 100
4. Cost of goods sold and/or operations (from line 39)..... 0
5. Gross profit. (Line 3 - Line 4) 43, 100
6. Other income (inc'l gasoline or fuel tax credit/refund) .....
7. Gross income. (Line 5 + line 6)..... 43, 100

PART II - DEDUCTIONS

8. Advertising 23, 600
10. Car/truck expenses..... 8, 720
13. Deprecn, Form 4562 0

25b.	Meals, entertaint	1, 720
25c.	20% of line 25b	344
25d.	Line 25b minus 25c	1, 376
28.	Other (describe)	
	SUBCONTRACT LBR	14, 350
	HOTELS	2, 240
27b.		10, 590
29.	Total expenses (Lines 8 through 28)	50, 286
30.	Net Profit/loss (ln 7 - ln 29)	
	(To Form 1040, Sched SE)	-7, 186

PART III - COST OF GOODS SOLD AND/OR OPERATIONS

37.	Sum of lines 32 through 36	0
39.	Cost of goods sold and/or operations	
	(Line 37 - line 38)	0

GOV. EXHIBIT NO. 1
CASE NO. AW-98-0126
IDENTIFICATION: MAY 3, 1999
ADMITTED: MAY 3, 1999

SEIZED SALES RECEIPTS ANALYSIS
AHMAD MIZANI
1990, 1991, 1992, 1993

COMPANY/BUSINESS NAMES
SHOWN ON RECEIPTS
A&A PERSIAN RUG INC.
ACTION AUCTION
A. MIZANI
ARAMIS INT'L MARKETING INC.
BETHESDA ORIENTAL RUG, INC.
BLANK - NO BUSINESS NAME
CHANEL ORIENTAL RUG GALLERY
EASTERN ENTERPRISES
EURASIAN TRANSGER
KURAISHI, INC
MANHATTAN
PARK AVENUE ORIENTAL RUGS
PERSIAN RUG, INC.
U.S. CAPITAL AUCTION

PERIOD	AMOUNT	
1990	$	88,322.20
1990	$	81,583.70
1990	$	171,789.60
1990	$	155,621.00
1990	$	41,249.50
1990	$	321,362.06
1990-1991	$	91,366.30
1990-1991	$	215,960.00
Total	$	1,167,254.36

1991	$	82,696.31
1991	$	258,190.25
Feb-91	$	180,982.05
May-91	$	66,818.15
Jun-91	$	107,729.95
Jul-91	$	124,909.65
Aug-91	$	158,319.83
Sep-91	$	37,989.40
Sep-91	$	70,642.10
Oct-91	$	61,373.15
Nov-91	$	94,809.50
Nov-91	$	22,752.50
Nov-91	$	39,864.20
Nov-91	$	169,908.80
Dec-91	$	86,499.50

Total	$	1,563,485.34
1992	$	26,719.00
Jan-92	$	64,702.10
Jan-92	$	60,613.50 –
Jan-92	$	54,649.23
Feb-92	$	20,858.60
Feb-92	$	53,116.60
Feb-92	$	53,371.83
Feb-92	$	11,923.05
Mar-92	$	165,619.30
Mar-92	$	32,638.10
Mar-92	$	17,504.80
Mar-92	$	8,772.75
Mar-92	$	16,230.50
Apr-92	$	5,667.00
Apr-92	$	29,033.40
May-92	$	5,712.50
May-92	$	15,284.50
May-92	$	19,881.80

May-92	$	79,460.30
Jun-92	$	20,424.05
Jul-92	$	85,282.55
Aug-92	$	24,158.93
Sep-92	$	12,578.50
Sep-92	$	2,809.00
Oct-92	$	11,177.50
Nov-92	$	52,417.45
Nov-92	$	18,699.75
Dec-92	$	5,779.00
Total	$	975,085.59
Jan-93	$	74,805.11
1993	$	22,409.38
1993	$	24,456.90
1993	$	508,517.90
1993	$	134,044.99
1991 - 1993	$	354,504.00
Total	$	1,118,738.28
Grand Total	**$**	**4,824,563.57**
LESS:		
COST OF SALES	**$**	**(1,640,351.61)**
	34% OF RECEIPTS	
TOTAL GROSS INCOME	**$**	**3,184,211.96**
LESS:		
REPORTED GROSS INCOME	**$**	**(142,100.00)**
UNREPORTED GROSS INCOME	**$**	**3,042,111.96**
X TAX RATE		**X 28%**
ADDITIONAL TAX	**$**	**851,791.35**

TAX RETURN INFORMATION
AHMAD MIZANI

YEAR		GROSS RECEIPTS
1990	$	43,100.00
1991	$	72,500.00
1992	$	26,500.00
1993		----------
TOTAL	$	142,100.00

NAME	Helen B. Doner	Helen B. Doner
TYPE	KASHAN 4X6	BIJAR 6X9
RUG NUMBER	2318	2312
LEDGER PAGE	47	47
COST PER SQ FT	$8.00	$8.00
TOTAL SQ FT	24	54
COST	$192.00	$432.00
PERCENT OF TOTAL PRICE	40%	27%
B. PRICE	$275.00	$600.00
S. PRICE	$550.00	$1,200.00
ACTUAL PRICE	$450.00	$1,500.00
SALES TAX	$27.00	$90.00
TOTAL PRICE	$477.00	$1,590.00

NAME	Helen B. Doner	Monica C. Campbell
TYPE	BIJAR 9X12	KASHAN 9X12
RUG NUMBER	2321	2307
LEDGER PAGE	47	47
COST PER SQ FT	$8.00	$8.00
TOTAL SQ FT	108	108
COST	$864.00	$864.00
PERCENT OF TOTAL PRICE	20%	41%
B. PRICE	$1,450.00	$1,350.00
S. PRICE	$2,900.00	$2,700.00
ACTUAL PRICE	$4,000.00	$2,000.00
SALES TAX	$240.00	$120.00
TOTAL PRICE	$4,240.00	$2,120.00

NAME	Kathy May	Luis M. Galvez
TYPE	KASHAN 8X10	BOKARA 3X5
RUG NUMBER	2327	2176
LEDGER PAGE	47	44
COST PER SQ FT	$8.00	$5.50
TOTAL SQ FT	80	15
COST	$640.00	$82.50
PERCENT OF TOTAL PRICE	32%	39%
B. PRICE	$1,250.00	$125.00
S. PRICE	$2,500.00	$250.00
ACTUAL PRICE	$1,900.00	$200.00
SALES TAX	$95.00	$10.00
TOTAL PRICE	$1,995.00	$210.00

NAME	Anthony A. Peso	Anthony A. Peso
TYPE	SILK KASHAN 3X2	SILK QUM 4X6
RUG NUMBER	2084	2355
LEDGER PAGE	42	48
COST PER SQ FT	$11.70	$11.70
TOTAL SQ FT	6	24
COST	$70.20	$280.80
PERCENT OF TOTAL PRICE	19%	27%
B. PRICE	$200.00	$570.00
S. PRICE	$400.00	$1,150.00
ACTUAL PRICE	$350.00	$1,000.00
SALES TAX	$17.50	$50.00
TOTAL PRICE	$367.50	$1,050.00

NAME	Anthony A. Peso	Margaret A. Fairbanks
TYPE	BOKARA 3X5	SILK KASHAN 4X6
RUG NUMBER	2216	2358
LEDGER PAGE	45	48
COST PER SQ FT	$5.50	$11.70
TOTAL SQ FT	15	24
COST	$82.50	$280.80
PERCENT OF TOTAL PRICE	26%	27%
B. PRICE	$150.00	$575.00
S. PRICE	$300.00	$1,150.00
ACTUAL PRICE	$300.00	$1,000.00
SALES TAX	$15.00	$50.00
TOTAL PRICE	$315.00	$1,050.00

NAME	Gus Giviskos	Victor M. Muschell
TYPE	BIJAR 4X6	BIDJAR 9X12
RUG NUMBER	2334	2305
LEDGER PAGE	47	47
COST PER SQ FT	$7.11	$8.00
TOTAL SQ FT	24	108
COST	$170.64	$864.00
PERCENT OF TOTAL PRICE	29%	53%
B. PRICE	$275.00	$1,250.00
S. PRICE	$550.00	$2,500.00
ACTUAL PRICE	$550.00	$1,500.00
SALES TAX	$33.00	$120.00
TOTAL PRICE	$583.00	$1,620.00

NAME	Mary Ella Kronstad	Leonard Pasherech
TYPE	KASHAN 8'4" X 10'5"	KASHAN 8X10
RUG NUMBER	2754	2326
LEDGER PAGE	44	47
COST PER SQ FT	$8.00	$8.00
TOTAL SQ FT	86.81	80
COST	$694.44	$640.00
PERCENT OF TOTAL PRICE	47%	61%
B. PRICE	$900.00	$1,100.00
S. PRICE	$1,800.00	$2,200.00
ACTUAL PRICE	$1,400.00	$1,000.00
SALES TAX	$70.00	$50.00
TOTAL PRICE	$1,470.00	$1,050.00

NAME	Anne E. Scagnetti	Anne E. Scagnetti
TYPE	BOKARA 3X5	BIJAR 9X12
RUG NUMBER	2222	2268
LEDGER PAGE	45	47
COST PER SQ FT	$5.50	$8.00
TOTAL SQ FT	15	108
COST	$82.50	$864.00
PERCENT OF TOTAL PRICE	26%	39%
B. PRICE	$150.00	$1,200.00
S. PRICE	$300.00	$2,400.00
ACTUAL PRICE	$300.00	$2,100.00
SALES TAX	$15.00	$105.00
TOTAL PRICE	$315.00	$2,205.00

TOTAL COST	**$7,104.38**
PERCENT	**34%**
TOTAL PRICE	**$20,657.50**

U.S. CAPITAL AUCTION
9155 BROOKVILLE RD.
SILVER SPRING, MD 20910
(301) 585-8055

Order No. _____ Date 7/27 19 91
Sold to Helen B. Doner
5221 Valley Park Rd.
Doylestown, PA 18901
(215) 766-0119

1.	2318 Kashan Rug 4x6	$450 -
2.	2312 Bijar 6x9 Rug	$1500
3.	234 Bijar 9x12 Rug	$4000

		$5950
		389

		$6307

/s/ Helen B. Doner

1.	#2318	Page 47
	B. Price	275
	S. Price	550
	Cost Sq. Ft.	24x8=192
	Percentage	42.67%
	Profit	258 + Tax
2.	#2312	Page 47
	B. Price	600
	S. Price	1200
	Cost	54x8=432
	Percentage	28.8%
	Profit	1068 + Tax
3.	#2321	Page 47
	B. Price	1450
	S. Price	2900
	Cost Sq. Ft.	108x8=864
	Percentage	21.6%
	Profit	3136 + Tax

INVOICE

PARS AUTO PVT. LTD.
MANUFACTURERS & EXPORTERS
Flat No. 9, W-56, Greater Kailash-II
New Delhi - 110 048 (INDIA)
Tel: 6410354
Fax: 91-11-6464000

No. PAL/035/90-91 Date. 1st June 90

M/s Channel Oriental Rug Gallery, 108 N. Washington Street Easton, Maryland M.D. 21601
Markos - PA-AS/BALTIMORE

Order No. 238 Date 19 April 90
Terms of Payment C.O.D.
A.W. Bill/Bill of
Lading No. By SLA BOMBAY TO BALTIMORE
G.R.I. NO.
INDIAN HAND KNOTTED WOLLEN CARPETS
QUALITY:- 9/54 Kashun Bidhjar

S.No.	NO. OF PIECES	AREA (SQ.YD.)	RATE	AMOUNT (PER SQ.YD)
236	2	24.56	72/-	1768.32
237	3	26.87	72/-	1934.64
238	7	18.53	72/-	1334.32
239	6	13.56	72/-	970.32
241	8	13.77	72/-	991.44
240	5	14.64	72/-	1054.08
242	2	17.87	72/-	1286.64
243	2	18.28	72/-	1316.16
244	2	24.62	72/-	1772.64
245	2	17.76	72/-	1278.72
246	2	23.67	72/-	1704.24
247	2	23.50	72/-	1692.00

248	6	16.25	72/-	1170.00
249	1	23.94	72/-	1723.68
250	9	17.84	72/-	1284.48
251	9	19.22	72/-	1383.84
252	3	24.51	72/-	1764.72
253	1	24.39	72/-	1756.08
18 Rolls	72	363.78		26,192.16

INVOICE VALUE U.S. DOLLAR TWENTY SIX THOUSAND ONE HUNDRED NINETY TWO AND SIXTEEN CENTS

COMPOSITION OF RAW MATERIALS
WOOLLEN YARN 74%
COTTON YARN.....30%
NET.WT..... GROS. WT.....

INVOICE

PARS AUTO PVT. LTD.
MANUFACTURERS & EXPORTERS
Flat No. 9, W-56, Greater Kailash-II
New Delhi - 110 048 (INDIA)
Tel: 6410354
Fax: 91-11-6464000

No. PAL/032/90-91 Date. 24th April 1990

M/s Channel Oriental Rug Gallery,
108 N. Washington Street Easton, MD. 21301
UNITED STATES OF AMERICA

Order No. 238 Date 19 April 90
Terms of Payment CASH AGAINST DOCUMENTS.
A.W. Bill/Bill of
Lading No. F-108-25639 Dt. 16th May
G.R.I. NO. 466526

9/54 QUALITY, KASHAN & BIDJAR DESIGN INDIAN HANDKNOTTED WOOLLEN CARPETS

S.No.	NO. OF PIECES	AREA (SQ.YD.)	RATE	AMOUNT (PER SQ.YD)
182	2	24.42	72.00	1,758.24
183	3	17.91	72.00	1,289.52
184	3	13.11	72.00	1,303.92
185	6	15.98	72.00	1,150.56
186	2	18.26	72.00	1,314.72
187	3	17.94	72.00	1,291.68
188	2	24.14	72.00	1,736.08
189	5	12.17	72.00	876.24
190	5	11.95	72.00	860.00
191	5	13.81	72.00	994.32
192	6	15.71	72.00	1,131.12

193	5	15.45	72.00	1,115.28
194	10	20.01	72.00	1,440.72
225	2	23.94	72.00	1,725.84
14 Rolls	59	249.87		17,990.64

1. TOTAL C.I.F. INVOICE VALUE U.S.D.SEVENTEEN THOUSAND NINE HUNDRED & NINETY & SIXTY FOUR CENTS ONLY
2. COMPOSITION = WOOLLEN YARN = 70%
COTTON YARN = 30%

(609) 397-8127
C-A-M

U.S. CAPITAL AUCTION
9155 BROOKVILLE RD.
SILVER SPRING, MD 20910
(301) 585-8055

Order No. _____ Date 8-3 19 91
Sold To MONICA C. CAMPBELL 08530
134 ROCKTOWN RD. LAMBERTVILLE NJ

9368	KASHAN 4X6	500—
	BOKARA 4X6	400—
2307	KASHAN 9X12	2000—

		2900
		174

		$3074

/s/ Monica C. Campbell
02955

1.	#2307	Page 47
	B. Price	1350
	S. Price	2700
	Cost	108x8=864
	Profit	1136
	Percentage	43.20%

(208) 473-4001
C-A-M

U.S. CAPITAL AUCTION
9155 BROOKVILLE RD.
SILVER SPRING, MD 20910
(301) 585-8055

Order No. _____ Date 8-17 19 91
Sold To Kathy May N9 Beaver St.
Milfar MA 01757-3648

2327	KASHAN/Blue 8X10	1900—

		95

		$1995

256 Turk 4x2 Free

8750
Mizani
Final
02915

1.	#2327	Page 47
	B. Price	1250
	S. Price	2500
	Cost	80x8=640
	Profit	1260+Tax
	Percentage	33.68%

Luis M Galvez
Turnpike Rd.
RR 1 Box 21

U.S. CAPITAL AUCTION
9155 BROOKVILLE RD.
SILVER SPRING, MD 20910
(301) 585-8055

Order No. _____ Date_____ 19___
Sold To Norwich VT 05055

2176	BOKARA 3X5	200—

		10

		$210

802-649-3631
/s/ Luis M Galvez
564
02129

Ledger #44	
B. Price	125
S. Price	250
Cost	15x5.5=$82.5
Profit	$127.50
Percentage	39.29%

INVOICE

PARS AUTO PVT. LTD.
MANUFACTURERS & EXPORTERS
Flat No. 9, W-56, Greater Kailash-II
New Delhi - 110 048 (INDIA)
Tel: 6410354
Fax: 91-11-6464000

No. PAL/051/91-92 Date. 14th August '91

M/s Chanel Oriental Rug Gallery,
9155, Brookville Road, Silver Spring, M.D. 20910
UNITED STATES OF AMERICA,
TEL: (301)-585-8055

Order No. 738 Date 25-7-91
Terms of Payment - CASH AGAINST DOCUMENTS.
A.W. Bill/Bill of
Lading No. 390371618 Dt/ 28-8-1991
G.R.I. NO. GS - 537413

INDIAN HANDKNOTTED WOOLLEN ORIENTAL RUGS.

ROLL NO.	PARTICULARS	NO. OF	SIZE FEET	AREA (SQ.FT.)	RATE (PER SQ.FT)	AMOUNT U.S.$
452	12/60 quality Indo Bidjar	2	9x12	222.03	8.00	1,776.24
453	"	3	6x9	165.02	8.00	1,320.16
478	41/2/30 quality Chindia	2	8x10	151.12	2.50	377.80
479	"	2	8x10			
			9x12	173.31	2.50	433.28
480	"	2	9x12	195.50	2.50	488.75

481	12/60 quality Indo Bidjar	2	8x10	159.21	8.00	1,273.68
482	Indo Kashan	2	9x12	211.28	8.00	1,690.24
483	41/2/30 quality Chindia	2	9x12	216.00	2.50	540.00
484	"	2	9x12	216.00	2.50	540.00
485	"	2	9x12	216.00	2.50	540.00
486	"	2	9x12	216.00	2.50	540.00
487	"	2	8x10	160.00	2.50	400.00
488	"	2	10x14			
			9x12	248.00	2.50	620.00
489	"	2	12x15			
			9x12	288.00	2.50	720.00
490	12/60 Indo Bidjar	1	12x18	224.00	8.00	1,792.00
491	Indo Badjar Kashan	2	8x10	155.05	8.00	1,240.40
493	10/18 quality Bukhara	10	4x6	242.48	5.50	1,333.64
494	"	9	4x6			
			3x5	181.77	5.50	999.74
18 Rolls		51		3640.77		16,625.93

1. TOTAL INVOICE VALUE U.S.$ SIXTEEN THOUSAND SIX HUNDRED & TWENTY FIVE & NINETY THREE CENTS ONLY.
2. CONTENT OF RAW MATERIAL
   WOOLLEN YARN = 80%
   COTTON YARN = 20%
3. NETT WEIGHT – 1504.000 Kgs.
   GROSS WEIGHT – 1549.000 Kgs.

Tel# 508-872-5092

U.S. CAPITAL AUCTION
9155 BROOKVILLE RD.
SILVER SPRING, MD 20910
(301) 585-8055

Order No. _____ Date 8/17 19 91
Sold To Anthony A. Peso
102 Howe St. Farmington Mass

270	TUCKMAN RED 4X2	150—
2084	SILK KASHAN 3X2	350—
250	TURKMAN 4X2	125—
2355	SILK QUM 4X6	1000—
2216	BOKARA 3X5	300—

		96
		1925

		$7021

02913

1.	2084	Page 47
	B. Price	200
	S. Price	400
	Cost	6x11.7=$70.20
	Profit	279.80+Tax
	Percentage	20.06%
2.	2355	Page 48
	B. Price	570
	S. Price	1150
	Cost	24x11.70=$280.80
	Profit	719.20+Tax
	Percentage	28.08%

3.	2216	Page 45
	B. Price	150
	S. Price	300
	Cost	15x5.5=$82.5
	Profit	217.50+Tax
	Percentage	27.5%

Tel# 508-872-5092

U.S. CAPITAL AUCTION
9155 BROOKVILLE RD.
SILVER SPRING, MD 20910
(301) 585-8055

Order No. _____ Date 8/17 19 91
Sold To Margaret A. Fairbanks
15 Eastview Rd. Hopkinton, MA
01748

2358	SILK KASHAN 4X6	1000—
1002	SILK KASHAN 4X6	1000—
	6750 RED	

		2000
		100

		$2100

02914
/s/ Margaret A. Fairbanks
FINAL

1.	2358	Page 48
	B. Price	575
	S. Price	1150
	Cost	24x11.70=$280.80
	Profit	719.20+Tax
	Percentage	28.08%

INVOICE

PARS AUTO PVT. LTD.
MANUFACTURERS & EXPORTERS
Flat No. 9, W-56, Greater Kailash-II
New Delhi - 110 048 (INDIA)
Tel: 6410354
Fax: 91-11-6464000

No. PAL/048/91-92 Date. 15th APRIL 1991

M/s Chanel Oriental Rug Gallery,
9155, Brookville Road, Silver Spring, M.D. 20815
UNITED STATES OF AMERICA,
TEL: (301)-585-8055

Order No. 725 Date 12/3/91
Terms of Payment CASH AGAINST DOCUMENTS.
A.W. Bill/No. 220-1256-7181 Dt/ 16/4/91
G.R.I. NO. GP - 599907

ROLL NO.	PARTIC-ULARS	NO. OF	SIZE FEET	AREA (SQ.FT.)	RATE (PER SQ.FT)	AMOUNT U.S.$
405	16/16 quality Indian Hand Knotted Art Silk Carpets	2	10x14	280.00	15.60	4,368.00
406	"	2	9x12	218.76	15.60	3,412.66
407	"	2	9x12	222.00	15.60	3,463.20
408	"	2	9x12 8x11	199.00	15.60	3,104.40
409	"	3	7x10	214.35	13.00	2,786.55
410	"	3	6x9	173.63	13.00	2,257.19
411	"	3	6x9	166.50	13.00	2,164.50

412	"	3	6x9	169.83	13.00	2,207.79
413	"	6	4x6	146.83	11.70	1,717.91
414	"	3	7x10	209.76	13.00	2,726.88
415	"	6	4x6			
			2x3	116.57	11.70	1,363.87
416	"	2	6x9	108.74	13.00	1,413.62
417	"	2	8x11	190.86	15.60	2,977.42
13 Rolls		39pcs.		2416.83		33,963.99

TOTAL INVOICE VALUE = U.S.$ THIRTY THREE THOUSAND NINE HUNDRED SIXTY THREE & NINTY NINE CENTS ONLY.

COMPOSITION OF RAW MATERIAL:

ART SILK YARN = 80%

COTTON YARN = 20%

KNOTS PER SQ. MTH. APPROX 3,96,800 ONLY
AND ABOVE 500 KNOTS PER RUNNING MTR. WARP.

GROOS WEIGHT – 680 000 KG.
NET WEIGHT – 654 000 KG.

908-874-6862

U.S. CAPITAL AUCTION
9155 BROOKVILLE RD.
SILVER SPRING, MD 20910
(301) 585-8055

Order No. _____ Date 8/3 19 91
Sold To Gus Giviskos
63 Fieldcrest Ave.
Skillman, N.J. 08558

2334	BIJAR 4X6	550—
1078	TURKMAN 10X26	400—

		950
		57

		$1007

02956
/s/ Gus Giviskos

1.	2334	Page 47
	B. Price	275
	S. Price	550
	Cost	24x7.11=$170.64
	Profit	379.36+Tax
	Percentage	30.98%

INVOICE

PARS AUTO PVT. LTD.
MANUFACTURERS & EXPORTERS
Flat No. 9, W-56, Greater Kailash-II
New Delhi - 110 048 (INDIA)
Tel: 6410354
Fax: 91-11-6464000

No. PAL/040/90-91 Date. 24/9/90

M/s Channel Oriental Rug Gallery,
108N. WASHINGTON STREET, EASTON, MARYLAND, M.D. 21601 U.S.A.
Marks: PARS/BALTIMORE
Order No. 710 Date 12 JULY 1990
Terms of Payment C.A.D.
A.W. Bill/Bill of Lading No. BOMBAY TO BALTIMORE(390107841)
G.R.I. NO. GM - 982857

ROLL NO.	PARTICULARS	NO. OF	SIZE FEET	AREA (SQ.FT.)	RATE (PER SQ.FT)	AMOUNT U.S.$
299	9/54 quality Kashan & Bidjar Disign Indian Hand Knotted Woolen Carpets	2	9x12	220.26	7.11	1566.05
300	"	2	8x10	163.37	7.11	1161.56
301	"	2	10x14	286.36	7.11	2036.02
302	"	2	9x12	206.91	7.11	1471.13

303	"	2	8x10	160.32	7.11	1139.88
304	"	28	2x3	167.89	7.11	1193.70
305	"	6	4x6	154.57	7.11	1098.99
306	"	6	4x6	143.18	7.11	1018.01
307	"	8	3x5	126.63	7.11	900.34
308	"	2	9x12	212.98	7.11	1514.29
309	"	2	8x10	166.58	7.11	1184.38
310	"	2	9x12	209.30	7.11	1488.12
311	"	3	6x9	156.03	7.11	1109.37
312	"	6	4x6			
			3x5	134.34	7.11	955.16
313	"	6	4x6			
			3x5	132.02	7.11	938.66
314	"	8	3x5	128.89	7.11	916.41
315	"	4	runner	116.06	7.11	825.19
316	"	4	runner	115.94	7.11	824.33
317	"	4	runner	128.96	7.11	916.91
318	"	8	3x5	125.28	7.11	890.74
319	"	9	3x5	136.34	7.11	969.38
320	"	3	6x9	164.79	7.11	1171.66
321	"	6	4x6	144.06	7.11	1024.27
322	"	4	round	227.05	7.11	1614.33
323	"	2	9x12	222.82	7.11	1584.25
324	"	2	8x10			
			10x14	222.26	7.11	1580.27
325	"	1	12x18	223.03	7.11	1585.74
326	"	2	9x12	212.03	7.11	1507.53
28 Rolls		136pcs.		4808.25		34186.67

TOTAL INVOICE VALUE = U.S.$ THIRTY FOUR THOUSAND ONE HUNDRED EIGHTY SIX & SIXTY SEVEN CENTS CIF

WOOL CONTENTS: 70%
COTTON CONTENTS: 30%

Vitctor M. Muschell
104 Church St.
Torrington CT. 06790

U.S. CAPITAL AUCTION
9155 BROOKVILLE RD.
SILVER SPRING, MD 20910
(301) 585-8055

Order No. _____ Date 8/4 19 91
Sold To _____

2305	9x12 BIDJAR	1500
		120
		$1620

02228
Paid Check 404
/s/ Victor M. Muschell

1.	2305	Page 47
	B. Price	1250
	S. Price	2500
	Cost	108x8=864
	Profit	636+Tax
	Percentage	55.87%

Mary Ella Kronstad
223 Allen Av.
Columbian OH 44458

U.S. CAPITAL AUCTION
9155 BROOKVILLE RD.
SILVER SPRING, MD 20910
(301) 585-8055

Order No. _____ Date 8/9 19 91
Sold To _____

2754	8x10 KASHAN	1400
		70

		$1470

482-4743
02138
M.C 06

1.	2754	Page 44
	B. Price	900
	S. Price	1800
	Cost	87x8=696
	Profit	704+Tax
	Percentage	49.71%

Leonard Pasherech
4228 Market St.
Boardman OH 44572

U.S. CAPITAL AUCTION
9155 BROOKVILLE RD.
SILVER SPRING, MD 20910
(301) 585-8055

Order No. _____ Date 8/9 19 91
Sold To _____

2326	8x10 KASHAN	1000
		50

		$1050

02141
VISA 046
788-9955

2326	Page 47
B. Price	1100
S. Price	2200
Cost	80x8=640
Profit	360+Tax
Percentage	61%

508-485-9679

U.S. CAPITAL AUCTION
9155 BROOKVILLE RD.
SILVER SPRING, MD 20910
(301) 585-8055

Order No. _____ Date 8/4 19 91
Sold To Anne E. Scagnetti
7 Crestview Dr.
Southboro, MA 01772

2222	BOKARA 3X5	300
2268	BIJAR 9X12	2100

		2400
		120

		$2520

02917
/s/ Anne E. Scagnetti
FINAL

1.	2222	Page 45
	B. Price	150
	S. Price	300
	Cost	15x5.5=82.50
	Profit	217.50+Tax
	Percentage	27.50%

2.	2268	Page 46
	B. Price	1200
	S. Price	2400
	Cost	108x8 = 864
	Profit	1236+Tax
	Percentage	41.14%

FAX COVER SHEET

TO,

CHANEL ORIENTAL RUG GALLERY
FAX NO. CO-1-301-608-3579

FROM,

PARS AUTHO PVT. LTD.
FAX NO. 91-11-6464000

DEAR MR. MIZANI,

I HOPE YOU HAVE RECEIVED THE 2 ROLLS & 28 ROLLS OF 9/60 QUALITY. AS I HAVE NOT YET RECEIVED THE PAYMENT FOR THE ABOVE TWO SHIPMENT I AM NOT SURE WHETHER YOU RECEIVED THEM. INCASE YOU HAVE NOT YET RELEASED THE MERCHANDISE I SHALL BE THANKFUL IF YOU COULD MADE THE PAYMENT FOR THESE TWO SHIPMENTS.

AS I WAS EXPECTING THEIR PAYMENT I HAVE MADE PURCHASES OF FURTHER GOODS WHICH ARE READY.

I ALSO HOPE YOU HAVE RECEIVED THE JAIPUR SINGLE MERCHANDISE. I HAVE NOT BEEN ABLE TO SPEAK TO YOU IN THIS REGARD. I HAVE READY 8,000 SQ. FT. OF THE SAME MERCHANDISE WHICH I WANT TO SEND BY SEA. THE GOODS WILL COST $ 4,10 SQ/FT BY SEA. THE SHIPMENT OF SILK FOR ABOUT $ 30,000/- IS ALSO READY.

I HOPE YOU COULD MAKE THE PAYMENT FOR THESE TWO SHIPMENTS AS THE BANKS WILL CLOSE FROM DEC. 22nd FOR 15 DAYS & SINCE I

HAVE MADE ARRANGEMENT FOR SENDING GOODS
OF ABOUT $ 100,000 MORE IN THIS MONTH.

REGARDS,

/s/ Honey
HONEY

PANJAB + SIND BANK
INTIL BANK
DIVISS
SCINDIA HOUSE
CANNAVERT HOUSE NEW DELHI

FAX MESSAGE

DATED: 3rd DECEMBER, 1990

TO. CHANEL ORIENTAL RUG GALLERY
FAX NO: 00-1-301-608-3579

DEAR MR. MIZANI,
I HAVE DISPATCHED TO YOU 4500 SQ. FEET OF JAIPUR SINGLE CARPETS. DETAILS OF MERCHANDISE IS GIVEN BELOW.
GOODS HAVE BEEN SENT BY JAPAN AIRPLANES AND SHALL BE ARRIVING AT NEW YORK (JFK) ON FRIDAY (7th DECEMBER).
DOCUMENTS HAVE BEEN SENT TO MARYLAND NATIONAL BANK & SHALL BE ARRIVING THERE ON FRIDAY.
PLEASE ARRANGE TO COLLECT DOCUMENTS FROM BANK ON FRIDAY AND SEND SOMEBODY TO NEW YORK ON MONDAY (10th DECEMBER) TO COLLECT MERCHANDISE.
I SHALL BE SENDING YOU $ 20,000.00 WORTH OF MERCHANDISE IN ARTIFICIAL SILK PURE SILK NEXT WEEK.

SINCERELY,
/s/ Honey
HONEY

No. PAL/843/90-91 Date. 28th May, 1990

M/s Channel Oriental Rug Gallery,
9155, BROOKVILLE ROAD, SILVER SPRING,
MARYLAND, M.D. 20910
UNITED STATES OF AMERICA
Order No. 710 Date 12 JULY 1990
Terms of Payment CASH AGAINST DOCUMENTS

A.W. Bill/No. 131 3083 3855
G.R.I. NO. GM 824388
INDIAN HANDKNOTTED WOOLEN CARPETS

ROLL NO.	PARTICULARS	NO. OF	SIZE FEET	AREA (SQ.FT.)	RATE (PER SQ.FT)	AMOUNT U.S.$
330	9/16 Single Weft Bazaar Quality	10	4x6	250.19	4.75	1,188.45
331	"	10	4x6	244.96	4.75	1,163.56
332	"	10	4x6	248.94	4.75	1,182.47
333	"	15	3x5	224.91	4.75	1,068.32
334	"	15	3x5	235.53	4.75	1,118.77
335	9/16 Single Weft Super Quality	7	4x6	169.44	6.00	1,018.44
336	"	6	4x6	142.16	6.00	852.96
337	9/16 Single Weft Bazaar Quality	8	4x6	192.78	4.75	915.71
338	"	8	4x6	206.97	4.75	978.83
339	"	7	4x6	175.38	4.75	853.66
340	"	11	3x5	167.87	4.75	797.10
341	"	10	3x5	147.62	4.75	761.28
342	"	6	6x9	333.42	5.05	1,683.77
343	"	10	4x6	245.77	4.75	1,167.41
344	"	10	4x6	242.39	4.75	1,151.39
345	"	9	3x5	135.63	4.75	644.24
346	"	11	3x5	168.92	4.75	802.37

347	"	3	9x12	324.23	5.35	1,754.63
348	"	4	9x12	401.45	5.35	2,147.76
349	"	3	8x10	238.80	5.35	1,277.58
20 Rolls	Total C.I.F. (New York) 173pcs.			4496.40		22,426.13

Total Invoice Value U.S.$ - Twenty Two Thousand Four Hundred Twenty Six And Thirteen Cents Only.

§ 61. Gross income defined

(a) General definition. - Except as otherwise provided in this subtitle, gross income means all income from whatever source derived, including (but not limited to) the following items:

(1) Compensation for services, including fees, commissions, fringe benefits, and similar items;
(2) Gross income derived from business;
(3) Gains derived from dealings in property;
(4) Interest;
(5) Rents;
(6) Royalties;
(7) Dividends;
(8) Alimony and seperate maintenance payments;
(9) Annuities;
(10) Income from life insurance and endowment contracts;
(11) Pensions;
(12) Income from discharge of indebtedness;
(13) Distributive share of partnership gross income;
(14) Income in respect of a decedent; and
(15) Income from an interest in an estate or trust.

* * *

§ 7206. Fraud and false statements

Any person who - -

(1) **Declaration under penalties of perjury.** - Willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter; or

* * *

U.S.S.G. § 2T1.3. Fraud and False Statements Under Penalty of Perjury

(a) Base Offense Level:

(1) Level from § 2T4.1 (Tax Table) corresponding to the tax loss, if the offense was committed in order to facilitate evasion of a tax; or

(2) 6, otherwise.

For purposes of this guideline, the "tax loss" is 28 percent of the amount by which the greater of gross income and taxable income was understated, plus 100 percent of the total amount of any false credits claimed against tax. If the taxpayer is a corporation, use 34 percent in lieu of 28 percent.

* * *

26 C.F.R. § 1.61-3 Gross income derived from business.

(a) *In general.* In manufacturing, merchandising, or mining business, "gross income" means the total sales, less the cost of goods sold, plus any income from investments and from incidental or outside operations or sources. Gross income is determined without subtraction of depletion allowances based on a percentage of income to the extent that it exceeds cost depletion which may be required to be included in the amount of inventoriable costs and provided in § 1.471-11 and without subtraction of selling expenses, losses or other items not ordinarily used in computing costs of goods sold or amounts which are of a type for which a deduction would be disallowed under section 162 (c), (f), or (g) in the case of a business expense. The cost of goods sold should be determined in accordance with the method of accounting consistently used by the taxpayer. Thus, for example, an amount cannot be taken into account in the computation of cost of goods sold any earlier than the taxable year in which economic performance occurs with respect to the amount (see § 1.446-1(c)(1)(ii)).